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Mandate Reimbursement Services

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November 20, 2007

Paula Higashi, Executive Director
Commission on State Mandates
U.S. Bank Plaza Building
980 Ninth Street, Suite 300
Sacramento, California 95814

RECEIVED

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**COMMISSION ON
STATE MANDATES**

Re: No. CSM. 02-TC -21
Tuition Fee Waivers

Dear Ms. Higashi:

Please find enclosed a supplement to the test claim filing, specifically, a history of the Title 5, CCR, sections included in the test claim.

Sincerely,



Keith B. Petersen

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8 BEFORE THE
9 COMMISSION ON STATE MANDATES
10 STATE OF CALIFORNIA

11	Supplement to the:)	No. CSM. 02-TC -21
12)	
13	Test Claim Filed May 23, 2003	)	<u>Tuition Fee Waivers</u>
14)	
15		)	History Index for
16		)	Title 5, California Code of Regulations
17	by Contra Costa Community College)	
18	District)	
19		)	Section 54002
20		)	Section 54010
21		)	Section 54012
22		)	Section 54020
23		)	Section 54022
24		)	Section 54024
25		)	Section 54030
26		)	Section 54032
27		)	Section 54041
28		)	Section 54042
29		)	Section 54045
30		)	Section 54045.5
31		)	Section 54046
32		)	Section 54050
33		)	Section 54060
34		)	Section 54070
35)	

36 REQUEST FOR SUPPLEMENTAL INFORMATION

37 This supplement to the test claim provides an index and copy of each change to
38 the Title 5, CCR, sections included in the test claim. The Registers cited are attached

as Exhibit A. Amended language is underlined (new language) or stricken out (deleted language).

HISTORY OF TITLE 5, CCR, SECTIONS INCLUDED IN THE TEST CLAIM

Register 73-26 § 54000-54002: Added new sections.

§ 54005.1-54005.12: Added new sections.

§ 54010: Added new section.

§ 54020: Added new section.

§ 54031-54040: Added new sections.

§ 54060: Added new section.

§ 54070: Added new section.

§ 54075-540082: Added new sections.

Register 77-45 § 54002: Amendment of section.

§ 54005.1: Amendment of section.

§ 54005.5: Amendment of section.

§ 54005.6: Amendment of section.

§ 54005.10: Amendment of section.

§ 54005.11: Amendment of section.

§ 54031: Amendment of section.

§ 54032: Amendment of section.

§ 54033: Amendment of section.

§ 54033.5: Repealer of section.

§ 54036: Amendment of section.

1		§ 54037: Amendment of section.
2		§ 54038: New section added by Register 73-44 (not available). It is
3		assumed that the amendment by this register is limited to change
4		in Education Code reference.
5		§ 54039: New section added by Register 74-10 (not available). It is
6		assumed that the amendment by this register is limited to change
7		in Education Code reference.
8		§ 54040: Amendment of section.
9		§ 54060: Amendment of section.
10		§ 54070: Amendment of section.
11	Register 82-48	§ 54000-54082 Repealed and § 54000-54070 added.
12	Register 83-24	§ 54041: Amendment of section.
13		§ 54000: New section added.
14	Register 86-10	§ 54045: Repealed, added a new section.
15	Register 91-23	§ 54000-54072: Amendment filed by Board of Governors of
16		California Community College with the Secretary of State,
17		submitted to OAL for printing only pursuant to Education
18		Code Section 70901.5(b).
19	Register 92-04	§ 54045: Amendment to section.
20	Register 92-12	§ 54045: Editorial correction of printing error.
21	Register 92-18	§ 54045: Repealed, added a new section.
22		Note: Register not available in attachment.

1	Register 95-19	§ 54000: Editorial Correction of HISTORY 4
2		§ 54001: Editorial Correction of HISTORY 1.
3		§ 54002: Editorial Correction of HISTORY 1.
4		§ 54010: Editorial Correction of HISTORY 1.
5		§ 54012: Editorial Correction of HISTORY 1.
6		§ 54020: Editorial Correction of HISTORY 1.
7		§ 54022: Editorial Correction of HISTORY 1.
8		§ 54024: Editorial Correction of HISTORY 1.
9		§ 54026: Editorial Correction of HISTORY 1.
10		§ 54028: Editorial Correction of HISTORY 1.
11		§ 54030: Editorial Correction of HISTORY 1.
12		§ 54032: Editorial Correction of HISTORY 1.
13		§ 54040: Editorial Correction of HISTORY 1.
14		§ 54041: Editorial Correction of HISTORY 2.
15		§ 54042: Editorial Correction of HISTORY 1.
16		§ 54045: Editorial Correction of HISTORY 2.
17		§ 54046: Editorial Correction of HISTORY 1.
18		§ 54048: Editorial Correction of HISTORY 1.
19		§ 54050: Editorial Correction of HISTORY 1.
20		§ 54060: Editorial Correction of HISTORY 1.
21		§ 54070: Editorial Correction of HISTORY 1.

§ 54072: Editorial Correction of HISTORY 1.

Register 99-20 § 54010: New subsection (f) and amendment of NOTE.

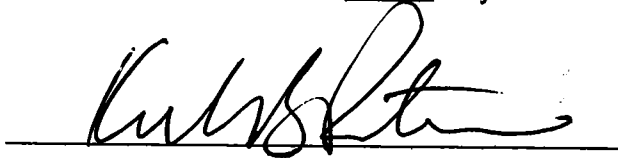
Register 02-25 § 54045.5: New section added.

Subsequent Registers: There may be changes to the regulations after the date the test claim was filed, which are not included.

CERTIFICATION

By my signature below, I hereby declare, under penalty of perjury under the laws of the State of California, that the information in this document is true and complete to the best of my own knowledge or information or belief, and that the attached regulations are true and correct copies of documents from archives of a recognized law library.

EXECUTED this ____ day of November 2007, at Sacramento, California



FOR THE TEST CLAIMANT

Keith Petersen, President

SixTen and Associates

ATTACHMENT

Exhibit A Title 5, CCR Registers

/

/

/

Register 73-26

§ 54002
§ 54010
§ 54020
§ 54032
§ 54040
§ 54060
§ 54070

SUBCHAPTER 3. APPEAL

Section

54060. Appeal Procedure

SUBCHAPTER 4. REFUNDS

Section

54070. Refunds

SUBCHAPTER 5. MISCELLANEOUS

Section

54075. Students in Attendance

54080. Litigation

Section

54081. Local Regulations

54082. Exceptions

SUBCHAPTER 1. GENERAL PROVISIONS

Article 1. Student Classification

54000. Classification. Each student shall be classified by the college of enrollment as a district resident, nondistrict resident, or a nonresident.

NOTE: Authority cited: Sections 22830, 22841 and 22805, Education Code. Reference: Chapter 7 (commencing with Section 22800) of Division 16.5, Education Code.

History: 1. Repealer of Chapter 1 (§§ 54000, 54001, 54100, 54101) and new Chapter 1 (§§ 54000 through 54082, not consecutive) filed 6-25-73 as an emergency; effective upon filing. Certificate of Compliance included (Register 73, No. 26). For prior history, see Register 70, No. 16.

54001. Tuition. A student classified as a nonresident shall be required, except as otherwise provided herein, to pay nonresident tuition. The amount of tuition shall be determined by the district governing board pursuant to the provisions of Education Code Section 25505.8.

54002. Residency Requirement. In order to be classified as a resident for tuition purposes, a student must have been a legal resident of California for more than one year immediately preceding the residence determination date for the term during which he proposes to attend a California Community College.

Article 2. Definitions

54005.1. Parent. "Parent" means a minor's father; or if he has no father, his mother; or, if both parents are deceased, his legal guardian.

54005.2. Student. "Student" means a person enrolled in or applying for admission to an institution.

54005.3. Continuous Attendance. "Continuous attendance," as it refers to attendance at a Community College, means full-time enrollment for a normal academic year at such institution since the beginning of the period for which continuous attendance is claimed. Nothing in this section shall require a student to attend summer session or other

terms beyond the normal academic year in order to render his attendance "continuous."

54005.4. Nonresident. A "nonresident" is a student who does not have residence in the state for more than one year immediately preceding the residence determination date.

54005.5. District Resident. A "district resident" is a resident who has residence within a district in the state, pursuant to Article 5 (commencing with Section 22845) of Chapter 7 of Division 16.5 of the Education Code.

54005.6. Nondistrict Resident. A "nondistrict resident" is a resident who does not have residence within a district in the state, or a student who, within a 39-month period immediately preceding the residence determination date, was graduated from a high school situated in territory not within a district.

54005.7. District. "District" means a Community College district maintaining one or more Community Colleges.

54005.8. Resident Classification. "Resident classification" means classification as a district resident, pursuant to Section 54005.5, or a nondistrict resident, pursuant to Section 54005.6.

54005.9. Resident Determination Date. "Resident determination date" is that day immediately preceding the opening day of instruction of the quarter, semester, or term as set by the district governing board, during which the student proposes to attend a college.

54005.10. Full-Time. "Full-time" for purposes of this Chapter means a student enrolled for 12 or more semester or quarter units of credit as of the census day.

54005.11. Institution. "Institution" means a public California Community College, the University of California, or the California State University and Colleges.

54005.12. Foreign Students. For purposes of Education Code Section 25505.8 and this chapter, "citizens of a foreign country," "residents of a foreign country," and "foreign students" mean persons who are both citizens and residents of a foreign country. For purposes of reporting to the Chancellor, all persons listed in the previous sentence shall be referred to as "foreign students."

SUBCHAPTER 2. PROCEDURE

Article 1. Residence Classification Procedure

54010. Residence Classification Procedure. Residence classification of all students shall be made for each term at each college starting at the time processing is commenced on applications for admission, readmission, or registration. Classifications shall be based on evidence presented in, and supporting, the applicant's answers to residence question-

naires and supplemental residence questionnaires authorized by the district governing board, such further evidence of residence deemed necessary by the institution, and such further evidence of residence as the applicant wishes to submit. Applicants answering their residence questionnaires and supplemental residence questionnaires shall be required to certify them under penalty of perjury or certify them under oath before an employee of the institution authorized by the district governing board at each institution to administer such oaths, or to certify them under oath before a person authorized to administer oaths under the laws of the political entity where the oath is to be administered.

Article 2. Evidence of Residence

54020. Requirements. In order to establish a residence, it is necessary that there be a union of act and intent. The act necessary to establish legal residence is physical presence in California. Relevant indications of intent to make California one's residence include, but are not limited to: voting in elections in California and not in any other state; satisfying California personal income tax obligations; establishing an abode in the state where one's belongings are kept; licensing from the state for professional practice; maintaining active resident memberships in California professional organizations; maintaining California vehicle license plates and/or operator's license; maintaining active savings and checking accounts in California banks; maintaining permanent military address or home of record in California in the armed forces; engagement in litigation for which residence is required; showing California as home address on federal income tax forms; and absence of any of these indications in other states during any period for which residence in California is asserted. Documentary evidence, including but not limited to the foregoing, may be required. No single factor is controlling or decisive.

Article 3. Evidence Required for Application of Statutory Exceptions to Nonresident Tuition Classification

54031. Self-Supporting Exception. Any minor student claiming application of the self-supporting exception pursuant to Education Code Section 22851 shall provide evidence to the admissions officer such as: documentation showing earnings for the year immediately preceding the residence determination date for the quarter, semester or term of attendance, a statement that the student has actually been present in California for said year (short durational stays away from the state will not preclude the accumulation of time), and a statement showing all expenses of the student for said year.

54032. Military Dependent. A dependent natural or adopted child, stepchild or spouse of a member of the armed forces of the United States claiming residence status pursuant to Section 22853 of the Education Code should provide the college admissions officer with a statement from the military person's commanding officer or personnel officer that the military person's duty station is in California on active duty as of the opening of the semester, quarter or term, or is outside

the continental United States on active duty after having been transferred immediately and directly from a California duty station. A statement that the student is a dependent of the military person for an exemption on federal taxes should also be provided.

54033. Member of Military. A student claiming application of Section 22854 of the Education Code must provide the admissions officer with a statement from the student's commanding officer or personnel officer that the assignment to active duty in this state is not for educational purposes. The student should also produce evidence of the date of assignment to California.

54034. Adult Aliens. An adult alien lawfully admitted to the United States for permanent residence and having residence in this state for more than one year and claiming residence immediately prior to the residence determination date and claiming residence for tuition purposes shall show his or her immigrant visa to the admissions officer at the time of classification.

54035. Minor Aliens. A minor alien claiming residence for tuition purposes shall be required at the time of classification to show his or her immigrant visa, his or her parents' immigrant visa and evidence that the parent has had permanent residence in the state for more than one year after admission to permanent residence prior to the residence determination date.

54036. Community College District Employee Holding Valid Credential. A student claiming residence status pursuant to Section 22857 of the Education Code should provide the admissions officer with a statement from the employer showing employment by a California Community College district in a full-time position requiring certification qualifications for the college year in which the student enrolls. The student must also show that he or she holds a provisional credential and will enroll in courses necessary to obtain another type of credential authorizing service in the public schools, or that the student holds a credential issued pursuant to Section 13125 of the Education Code and is enrolled in courses necessary to fulfill credential requirements, or is enrolled in courses necessary to fulfill credential requirements of the fifth year of education prescribed by subdivision (b) of Section 13130 of the Education Code.

54037. Apprentices. A student claiming resident status pursuant to Section 22858.5 of the Education Code shall provide evidence such as a card or certification from the Joint Apprenticeship Committee or the student's employer, evidencing such apprenticeship status.

54040. Exceptions from the One-Year Waiting Period. Those exceptions from payment of nonresident tuition provided by Education Code Sections 22850 (certain minors), 22853 (military dependents), and 22854 (military members) apply only so long as the student has not been in California long enough to have one year of California residence.

SUBCHAPTER 3. APPEAL

54060. Appeal Procedure. Any student, following a final decision on residence classification by the college, may make written appeal to the superintendent of the district or his designee within 30 calendar days of notification of final decision by the campus regarding classification. The superintendent, on the basis of the Statement of Legal Residence, pertinent information contained in the registrar's file, and information contained in the student's appeal, will make his determination and notify the student by United States mail, postage prepaid.

SUBCHAPTER 4. REFUNDS

54070. Refunds. The governing board of each Community College district shall adopt rules providing for refund of the following nonresident tuition fees:

- (a) Those collected in error.
- (b) Those refundable as a result of a reduction of the educational program at the Community College for which the fees have been paid.
- (c) Those refundable as a result of the student's reduction of units or his withdrawal from an education program at the Community College for which fees have been paid, where reduction or withdrawal is for reasons deemed sufficient by the district governing board.

SUBCHAPTER 5. MISCELLANEOUS

54075. Students in Attendance. A person enrolling for full-time attendance at a Community College who had resident classification on March 7, 1973, shall not lose such classification as a result of this chapter until the attainment of the degree for which he is currently enrolled. Nothing in this section shall be construed to require "full-time enrollment" on March 7, 1973, the effective date of this chapter.

54080. Litigation. If an action is brought against a district governing board as a result of the application of this chapter, that district governing board shall inform the Chancellor of the California Community Colleges of the pending litigation.

54081. Local Regulations. The governing board of a Community College district may adopt rules and regulations not inconsistent with regulations in this Chapter in order to insure orderly implementation of Chapter 1100 of the Statutes of 1972.

54082. Exceptions. The district may provide, by regulation, an exception to non-resident classification to a student who is a full-time employee of an institution or a student who is a child or spouse of a full-time employee of an institution until the student has resided in the state the minimum time necessary to become a resident. The exception provided hereunder shall not be made on an individual basis.

Register 77-45

§ 54002
§ 54032
§ 54040
§ 54060
§ 54070

SUBCHAPTER 1. GENERAL PROVISIONS

Article 1. Student Classification

54000. Classification. Each student shall be classified by the college of enrollment as a district resident, nondistrict resident, or a nonresident.

NOTE: Authority cited: Sections 69044, 69051 and 69090, Education Code. Reference: Chapter 1 (commencing with Section 69000) of Division 5, Part 41, Education Code.

- History:** 1. Repealer of Chapter 1 (§§ 54000, 54001, 54100, 54101) and new Chapter 1 (§§ 54000 through 54082, not consecutive) filed 6-25-73 as an emergency; effective upon filing. Certificate of Compliance included (Register 73, No. 26). For prior history, see Register 70, No. 16.
2. Amendment of NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

54001. Tuition. A student classified as a nonresident shall be required, except as otherwise provided herein, to pay nonresident tuition. The amount of tuition shall be determined by the district governing board pursuant to the provisions of Education Code Section 76140.

- History:** 1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

54002. Residency Requirement. In order to be classified as a resident for tuition purposes, a student must have been a legal resident of California for more than one year immediately preceding the residence determination date for the term during which the student proposes to attend a California Community College.

- History:** 1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

Article 2. Definitions

54005.1. Parent. "Parent" means a minor's father or mother; or, if both parents are deceased, the legal guardian.

- History:** 1. Amendment filed 11-6-74; effective thirtieth day thereafter (Register 74, No. 45).
2. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

54005.2. Student. "Student" means a person enrolled in or applying for admission to an institution.

54005.3. Continuous Attendance. "Continuous attendance," as it refers to attendance at a Community College, means full-time enrollment for a normal academic year at such institution since the beginning of the period for which continuous attendance is claimed. Nothing in this section shall require a student to attend summer session or other terms beyond the normal academic year in order to render the student's attendance "continuous."

- History:** 1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

TITLE 5**CALIFORNIA COMMUNITY COLLEGES**

637

(Register 77, No. 45—11-4-77)

54005.4. Nonresident. A "nonresident" is a student who does not have residence in the state for more than one year immediately preceding the residence determination date.

54005.5. District Resident. A "district resident" is a resident who has residence within a district in the state, pursuant to Article 5 (commencing with Section 68060) of Chapter 1, Part 41 of Division 5 of the Education Code.

History: 1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

54005.6. Nondistrict Resident. A "nondistrict resident" is a resident who does not have residence within a district in the state, or a student who, (a) within 39 months period immediately preceding the residence determination date, was graduated from a high school which is situated in territory not within a district, and (b) whose parent resides in such territory.

History: 1. Amendment filed 11-6-74; effective thirtieth day thereafter (Register 74, No. 45).

54005.7. District. "District" means a Community College district maintaining one or more Community Colleges.

54005.8. Resident Classification. "Resident classification" means classification as a district resident, pursuant to Section 54005.5, or a nondistrict resident, pursuant to Section 54005.6.

54005.9. Resident Determination Date. "Resident determination date" is that day immediately preceding the opening day of instruction of the quarter, semester, or term as set by the district governing board, during which the student proposes to attend a college.

54005.10. Full-Time. "Full-time" for purposes of this Chapter means a student enrolled for 12 or more semester or quarter units of credit. ✕✕✕

History: 1. Amendment filed 11-6-74; effective thirtieth day thereafter (Register 74, No. 45).

54005.11. Institution. "Institution" means a public California Community College, the University of California, the California Maritime Academy, or the California State University and Colleges.

History: 1. Amendment filed 11-6-74; effective thirtieth day thereafter (Register 74, No. 45).

54005.12. Foreign Students. For purposes of Education Code Section 76140 and this chapter, "citizens of a foreign country," "residents of a foreign country," and "foreign students" mean persons who are both citizens and residents of a foreign country. For purposes of reporting to the Chancellor, all persons listed in the previous sentence shall be referred to as "foreign students."

History: 1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

SUBCHAPTER 2. PROCEDURE

Article 1. Residence Classification Procedure

54010. Residence Classification Procedure. Residence classification of all students shall be made for each term at each college starting at the time processing is commenced on applications for admission, readmission, or registration. Classifications shall be based on evidence presented in, and supporting, the applicant's answers to residence questionnaires and supplemental residence questionnaires authorized by the district governing board, such further evidence of residence deemed necessary by the institution, and such further evidence of residence as the applicant wishes to submit. Applicants answering their residence questionnaires and supplemental residence questionnaires shall be required to certify them under penalty of perjury or certify them under oath before an employee of the institution authorized by the district governing board at each institution to administer such oaths, or to certify them under oath before a person authorized to administer oaths under the laws of the political entity where the oath is to be administered.

Article 2. Evidence of Residence

54020. Requirements. In order to establish a residence, it is necessary that there be a union of act and intent. The act necessary to establish legal residence is physical presence in California. Relevant indications of intent to make California one's residence include, but are not limited to: voting in elections in California and not in any other state; satisfying California personal income tax obligations; establishing an abode in the state where one's belongings are kept; licensing from the state for professional practice; maintaining active resident memberships in California professional organizations; maintaining California vehicle license plates and/or operator's license; maintaining active savings and checking accounts in California banks; maintaining permanent military address or home of record in California in the armed forces; engagement in litigation for which residence is required; showing California as home address on federal income tax forms; and absence of any of these indications in other states during any period for which residence in California is asserted. Documentary evidence, including but not limited to the foregoing, may be required. No single factor is controlling or decisive.

**Article 3. Evidence Required for Application of Statutory
Exceptions to Nonresident Tuition Classification**

54031. Self-Supporting Exception. Any student claiming application of the self-supporting exception pursuant to Education Code Section 68071 shall provide evidence to the admissions officer such as: documentation showing earnings for the year immediately preceding the residence determination date for the quarter, semester or term of attendance, a statement that the student has actually been present in California for said year (short durational stays away from the state will not preclude the accumulation of time), and a statement showing all expenses of the student for said year.

History: 1. Amendment filed 11-1-73; effective thirtieth day thereafter (Register 73, No. 44).
2. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

54032. Military Dependent. A dependent natural or adopted child, stepchild or spouse of a member of the armed forces of the United States claiming residence status pursuant to Section 68074 of the Education Code should provide the college admissions officer with a statement from the military person's commanding officer or personnel officer that the military person's duty station is in California on active duty as of the opening of the semester, quarter or term, or is outside the continental United States on active duty after having been transferred immediately and directly from a California duty station. A statement that the student is a dependent of the military person for an exemption on federal taxes should also be provided.

History: 1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

54033. Member of Military. A student claiming application of Section 68075 of the Education Code must provide the admissions officer with a statement from the student's commanding officer or personnel officer that the assignment to active duty in this state is not for educational purposes. The student should also produce evidence of the date of assignment to California.

History: 1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

54033.5. Students in Advanced Degree Programs.

History: 1. New section filed 11-1-73; effective thirtieth day thereafter (Register 73, No. 44).
2. Repealer filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

54034. Adult Aliens. An adult alien lawfully admitted to the United States for permanent residence and having residence in this state for more than one year and claiming residence immediately prior to the residence determination date and claiming residence for tuition purposes shall show his or her immigrant visa to the admissions officer at the time of classification.

54035. Minor Aliens. A minor alien claiming residence for tuition purposes shall be required at the time of classification to show his or her immigrant visa, his or her parents' immigrant visa and evidence that the parent has had permanent residence in the state for more than one year after admission to permanent residence prior to the residence determination date.

54036. Public School Employee Holding Valid Credential. A student claiming residence status pursuant to Section 68078 of the Education Code shall provide the admissions officer with a statement from the employer showing employment by a public school in a full-time position requiring certification qualifications for the college year in which the student enrolls. The student must also show that he or she holds a credential and will enroll in courses necessary to obtain another type of credential authorizing service in the public schools, or that the student holds a credential issued pursuant to Section 87274 of the Education Code and is enrolled in courses necessary to fulfill credential requirements. *XX*

History: 1. Amendment filed 11-1-73; effective thirtieth day thereafter (Register 73, No. 44).
2. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

54037. Apprentices. A student claiming resident status pursuant to Section 68081 of the Education Code shall provide evidence such as a card or certification from the Joint Apprenticeship Committee or the student's employer, evidencing such apprenticeship status.

History: 1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

54038. Student Under Custody of Resident Adult. A student claiming residence under provisions of 68073 of the Education Code shall provide the college admissions officer with evidence that the adult or adults with whom the student has resided has had California residence for 1 year immediately preceding the residence determination date, and further evidence that the student has resided with such adult or adults for a period of not fewer than 2 years.

History: 1. New section filed 11-1-73; effective thirtieth day thereafter (Register 73, No. 44).
2. Amendment of section and repealer of NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

54039. Agricultural Employment. A student claiming residence pursuant to Section 68100 of the Education Code shall provide the admissions officer with either (a) or (b):

(a) Evidence that the student's parent with whom the student is living earns a livelihood primarily by performing agricultural labor for hire in California and other states and has performed such labor in California for at least two months in each of the preceding two years, and that the parent lives within the district. If the parent of such student had sufficient income to incur personal income tax liability for federal and/or state purposes, proof that the student was claimed as a dependent on federal or state personal income tax returns shall also be required.

(b) Evidence showing the student himself or herself earns a livelihood primarily by performing agricultural labor for hire in California and other states and that such labor has been performed in California for at least two months in each of the preceding two years.

As used in this section (54039), agricultural labor for hire means seasonal employment in connection with actual production of agricultural crops, including seeding, thinning and harvesting.

NOTE: Authority cited: Section 68100, Education Code

History: 1. New section filed 3-5-74 as an emergency; effective upon filing. Certificate of Compliance included (Register 74, No. 10).
2. Amendment of section and NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

54040. Exceptions from the One-Year Waiting Period. Those exceptions from payment of nonresident tuition provided by Education Code Sections 68070 (certain minors), 68074 (military dependents), and 68075 (military members) apply only so long as the student has not been in California long enough to have one year of California residence.

History: 1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

Amended
Section Refunds
only

SUBCHAPTER 3. APPEAL

54060. Appeal Procedure. Any student, following a final decision on residence classification by the college, may make written appeal to the superintendent of the district or the superintendent's designee within 30 calendar days of notification of final decision by the campus regarding classification. The superintendent, on the basis of the Statement of Legal Residence, pertinent information contained in the registrar's file, and information contained in the student's appeal, will make a determination and notify the student by United States mail, postage prepaid.

History: 1. Amendment filed 11-4-77 effective thirtieth day thereafter (Register 77, No. 45).

SUBCHAPTER 4. REFUNDS

54070. Refunds. The governing board of each Community College district shall adopt rules providing for refund of the following nonresident tuition fees:

- (a) Those collected in error.
- (b) Those refundable as a result of a reduction of the educational program at the Community College for which the fees have been paid.
- (c) Those refundable as a result of the student's reduction of units or the student's withdrawal from an education program at the Community College for which fees have been paid, where reduction or withdrawal is for reasons deemed sufficient by the district governing board.

History: 1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

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TITLE 5**CALIFORNIA COMMUNITY COLLEGES****§ 54012****(p. 635)****(Register 82, No. 48—11-27-82)****CHAPTER 1. STUDENT RESIDENCE CLASSIFICATION****54000. Uniform Residency Requirements.**

The provisions of this chapter implement and should be read in conjunction with the Uniform Residency Requirements contained in Part 41 (commencing with Section 68000) of the Education Code.

NOTE: Authority cited: Sections 66700, 68044, 68090 and 71020, Education Code. Reference: Part 41 (commencing with Section 68000), Education Code.

HISTORY:

1. Repealer of Chapter 1 (§§ 54000, 54001, 54100, 54101) and new Chapter 1 (§§ 54000 through 54082, not consecutive) filed 6-25-73 as an emergency; effective upon filing. Certificate of Compliance included (Register 73, No. 26). For prior history, see Register 70, No. 16.

2. Amendment of NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

3. Repealer of Chapter 1 (Sections 54000-54082, not consecutive) and new Chapter 1 (Sections 54000-54070, not consecutive) filed 11-22-82; effective thirtieth day thereafter (Register 82, No. 48). For prior history, see Registers 79, No. 46; 77, No. 45; 74, No. 45; 74, No. 10; and 73, No. 44.

54002. Residence Determination Date.

"Residence determination date" is that day immediately preceding the opening day of instruction of the quarter, semester, or other session as set by the district governing board, during which the student proposes to attend a college.

NOTE: Authority cited: Sections 66700, 68023, 68044, 68090 and 71020, Education Code. Reference: Section 68023, Education Code.

54010. Residence Classification Procedures.

(a) Residence classification shall be made for each student at the time applications for admission are accepted and whenever a student has not been in attendance for more than one semester or quarter. A student previously classified as a nonresident may be reclassified as of any residence determination date.

(b) The student shall be required to present evidence of physical presence in California, intent to make California the home for other than a temporary purpose and, if the student was classified as a nonresident in the preceding term, financial independence.

(c) Community college districts shall require applicants to supply information as specified in this chapter and may require additional information as deemed necessary.

(d) The district shall weigh the information provided by the student and determine whether the student has clearly established that he or she has been a resident of California for one year prior to the residence determination date.

(e) Applicants shall certify their answers on residence questionnaires under oath or penalty of perjury.

NOTE: Authority cited: Sections 66700, 68004, 68090 and 71020, Education Code. Reference: Sections 68044 and 68062, Education Code.

54012. Residence Questionnaires.

(a) Each community college district shall use a residence questionnaire in making residence classifications.

(b) The residence questionnaire shall ask each student where the student has maintained his or her home for the last two years and whether the student has engaged in any activity listed in subsection (f) of Section 54024.

(c) The questionnaire shall ask each student under 19 years of age where the parent has lived for the last two years and whether the parent has engaged in any activity listed in subsection (f) of Section 54024.

(d) If the student, or the student's parent if the student is under age 19, has either maintained a home outside of California at any time during the last two years, or has engaged in any activity listed in subsection (f) of Section 54024, the student shall be asked for additional evidence of intent to reside in California such as that identified in subsection (e) of Section 54024.

(e) The Chancellor shall provide a sample residence questionnaire which districts may use in complying with this requirement.

NOTE: Authority cited: Sections 66700, 68044 and 71020, Education Code. Reference: Sections 68044 and 68062, Education Code.

54020. Residence.

In order to establish a residence, it is necessary that there be a union of act and intent. To establish residence, a person capable of establishing residence in California must couple his or her physical presence in California with objective evidence that the physical presence is with the intent to make California the home for other than a temporary purpose.

NOTE: Authority cited: Sections 66700, 68044, 68090 and 71020, Education Code. Reference: Sections 68017, 68060, 68061 and 68062, Education Code.

54022. Physical Presence.

(a) A person capable of establishing residence in California must be physically present in California for one year prior to the residence determination date to be classified as a resident student.

(b) A temporary absence for business, education or pleasure will not result in loss of California residence if, during the absence, the person always intended to return to California and did nothing inconsistent with that intent.

(c) Physical presence within the state solely for educational purposes does not constitute establishing California residence regardless of the length of that presence.

NOTE: Authority cited: Sections 66700, 68044, 68090 and 71020, Education Code. Reference: Sections 68017, 68060, 68061 and 68062, Education Code.

54024. Intent.

(a) Intent to make California the home for other than a temporary purpose may be manifested in many ways. No one factor is controlling.

(b) A student who is 19 years of age or over, and who has maintained a home in California continuously for the last two years shall be presumed to have the intent to make California the home for other than a temporary purpose unless the student has evidenced a contrary intent by having engaged in any of the activities listed in subsection (f) of this section.

(c) A student who is under 19 years of age shall be presumed to have the intent to make California the home for other than a temporary purpose if both the student and his parent have maintained a home in California continuously for the last two years unless the student has evidenced a contrary intent by having engaged in any of the activities listed in subsection (f) of this section.

(d) A student who does not meet the requirements of subsection (b) or subsection (c) of this section shall be required to provide evidence of intent to make California the home for other than a temporary purpose as specified in subsection (e) of this section.

TITLE 5**CALIFORNIA COMMUNITY COLLEGES****§ 54032****(Register 82, No. 42—11-27-82)****(p. 637)**

(e) Objective manifestations of intent to establish California residence include but are not limited to:

- (1) Ownership of residential property or continuous occupancy of rented or leased property in California.
- (2) Registering to vote and voting in California.
- (3) Licensing from California for professional practice.
- (4) Active membership in service or social clubs.
- (5) Presence of spouse, children or other close relatives in the state.
- (6) Showing California as home address on federal income tax form.
- (7) Payment of California state income tax as a resident.
- (8) Possessing California motor vehicle license plates.
- (9) Possessing a California driver's license.
- (10) Maintaining permanent military address or home of record in California while in armed forces.

(11) Establishing and maintaining active California bank accounts.

(12) Being the petitioner for a divorce in California.

(f) Conduct inconsistent with a claim of California residence includes but is not limited to:

- (1) Maintaining voter registration and voting in another state.
- (2) Being the petitioner for a divorce in another state.
- (3) Attending an out-of-state institution as a resident of that other state.
- (4) Declaring nonresidence for state income tax purposes.

NOTE: Authority cited: Sections 66700, 68044, 68090 and 71020, Education Code. Reference: Sections 68017, 68060, 68061 and 68062, Education Code.

54026. Burden.

The burden is on the student to demonstrate clearly both physical presence in California and intent to establish California residence.

NOTE: Authority cited: Sections 66700, 68044, 68090 and 71020, Education Code. Reference: Section 68041, Education Code.

54028. One-Year Waiting Period.

The one-year residence period which a student must meet to be classified as a resident does not begin to run until the student both is present in California and has manifested clear intent to become a California resident.

NOTE: Authority cited: Sections 66700, 68044, 68090 and 71020, Education Code. Reference: Sections 68017, 68060, 68061 and 68062, Education Code.

54030. Reestablished Residence.

If a student or the parents of a minor student relinquish California residence after moving from the state, one full year of physical presence, coupled with one full year of demonstrated intent to be a California resident, is required to reestablish residence for tuition purposes, except as provided in Education Code Section 68070.

NOTE: Authority cited: Sections 66700, 68044, 68090 and 71020, Education Code. Reference: Sections 68017, 68060, 68061 and 68062, Education Code.

54032. Financial Independence.

(a) A student seeking reclassification as a resident, who was classified as a nonresident in the preceding term, shall be determined financially independent or dependent in accordance with Education Code Section 68044.

(b) A student who has established financial independence may be reclassified as a resident if the student has met the requirements of Section 54020 for one year prior to the residence determination date.

(c) In determining whether the student has objectively manifested intent to establish California residence, financial independence shall weigh in favor of finding California residence, and financial dependence shall weigh against finding California residence.

(d) Financial dependence in the current or preceding calendar year shall weigh more heavily against finding California residence than shall financial dependence in earlier calendar years. Financial dependence in the current or preceding calendar year shall be overcome only if (1) the parent on whom the student is dependent is a California resident, or (2) there is no evidence of the student's continuing residence in another state.

NOTE: Authority cited: Sections 66700, 68044, 68090 and 71020, Education Code. Reference: Section 68044, Education Code.

54040. Self-Supporting Exception.

Any student claiming application of the self-supporting exception pursuant to Education Code Section 68071 shall provide evidence to the admissions officer such as: documentation, including W-2 forms or a letter from the employer, showing earnings for the year immediately preceding the residence determination date of attendance, a statement that the student has actually been present in California for said year (short absences from the state for business or pleasure will not preclude the accumulation of time), and a statement showing all expenses of the student for said year.

NOTE: Authority cited: Sections 66700, 68044, 68090 and 71020, Education Code. Reference: Sections 68044, 68071 and 68090, Education Code.

54041. Military Dependent.

A dependent natural or adopted child, stepchild or spouse of a member of the armed forces of the United States claiming residence status pursuant to Section 68074 of the Education Code shall provide the college admissions officer with a statement from the military person's commanding officer or personnel officer that the military person's duty station is in California on active duty as of the residence determination date or is outside the continental United States on active duty after having been transferred immediately and directly from a California duty station. A statement that the student is a dependent of the military person for an exemption on federal taxes shall also be provided.

NOTE: Authority cited: Sections 66700, 68044, 68090 and 71020, Education Code. Reference: Sections 68044 and 68074, Education Code.

54042. Member of Military.

A student claiming application of Section 68075 of the Education Code must provide the admissions officer with a statement from the student's commanding officer or personnel officer that the assignment to active duty in this state is not for educational purposes. The student should also produce evidence of the date of assignment to California.

NOTE: Authority cited: Sections 66700, 68044, 68090 and 71020, Education Code. Reference: Sections 68044 and 68075, Education Code.

54045. Refugees.

A student claiming exemption from nonresident tuition pursuant to Education Code Section 84521.6 shall provide the admissions officer with documentation from the Immigration and Naturalization Service evidencing that the student is a refugee and shall establish that he or she has been a California resident for one year in accordance with Sections 54020, 54022 and 54024.

NOTE: Authority cited: Sections 66700, 68044, 68090 and 71020, Education Code. Reference: Section 84521.6, Education Code.

54046. Public School Employee Holding Valid Credential.

A student claiming residence status pursuant to Section 68078 of the Education Code shall provide the admissions officer with a statement from the employer showing employment by a public school in a full-time position requiring certification qualifications for the college year in which the student enrolls. The student must also show that he or she holds a credential and will enroll in courses necessary to obtain another type of credential authorizing service in the public schools, or that the student holds a credential issued pursuant to Section 87274 of the Education Code and is enrolled in courses necessary to fulfill credential requirements.

NOTE: Authority cited: Sections 66700, 68044, 68090 and 71020, Education Code. Reference: Sections 68044 and 68078, Education Code.

54047. Student Under Custody of Resident Adult.

A student claiming residence under provisions of Section 68073 of the Education Code shall provide the college admissions officer with evidence that the adult or adults with whom the student has resided has had California residence for 1 year immediately preceding the residence determination date, and further evidence that the student has resided with such adult or adults for a period of not fewer than 2 years.

NOTE: Authority cited: Sections 66700, 68044 and 68090, Education Code. Reference: Sections 68044 and 68073, Education Code.

54048. Agricultural Employment.

A student claiming residence pursuant to Section 68100 of the Education Code shall provide the admissions officer with either (a) or (b):

(a) Evidence that the student's parent with whom the student is living earns a livelihood primarily by performing agricultural labor for hire in California and other states and has performed such labor in California for at least two months in each of the preceding two years, and that the parent lives within the district. If the parent of such student had sufficient income to incur personal income tax liability for federal and/or state purposes, proof that the student was claimed as a dependent on federal or state personal income tax returns shall also be required.

(b) Evidence showing the student himself or herself earns a livelihood primarily by performing agricultural labor for hire in California and other states and that such labor has been performed in California for at least two months in each of the preceding two years.

As used in this section agricultural labor for hire means seasonal employment in connection with actual production of agricultural crops, including seeding, thinning and harvesting.

NOTE: Authority cited: Sections 66700, 68044, 68040 and 68100, Education Code. Reference: Sections 68044 and 68100, Education Code.

54050. Exceptions from the One-Year Waiting Period.

Those exceptions from payment of nonresident tuition provided by Education Code Sections 68074 (military dependents) and 68075 (military members) apply only during the first year of the student's current physical presence in California.

NOTE: Authority cited: Sections 66700, 68044 and 68090, Education Code. Reference: Sections 68044, 68074 and 68075, Education Code.

54060. Appeal Procedure.

(a) A community college district shall notify each student of the student's residence classification not later than fourteen (14) calendar days after the beginning of the session for which the student has applied, or fourteen (14) calendar days after the student's application for admission, whichever is later.

(b) Any student, following a decision on residence classification by the college, may make written appeal of that decision. Each community college district shall establish procedures for appeals of residence classifications.

(c) The Chancellor will advise community college districts on issues in residence classification. However, the student shall have no right of appeal to the Chancellor or Board of Governors.

NOTE: Authority cited: Sections 66700, 68044 and 68090, Education Code. Reference: Sections 68044 and 68090, Education Code.

54070. Refunds.

The governing board of each community college district shall adopt rules providing for refund of the following nonresident tuition fees:

(a) Those collected in error.

(b) Those refundable as a result of a reduction of the educational program at the community college for which the fees have been paid.

(c) Those refundable as a result of the student's reduction of units or the student's withdrawal from an education program at the community college for which fees have been paid, where reduction or withdrawal is for reasons deemed sufficient by the district governing board.

NOTE: Authority cited: Sections 66700, 68044 and 68090, Education Code. Reference: Sections 68044 and 68090, Education Code.

Register 83-24

§ 54041

TITLE 5**CALIFORNIA COMMUNITY COLLEGES****§ 54032****(p. 637)****(Register 83, No. 24—8-11-83)**

(e) Objective manifestations of intent to establish California residence include but are not limited to:

- (1) Ownership of residential property or continuous occupancy of rented or leased property in California.
- (2) Registering to vote and voting in California.
- (3) Licensing from California for professional practice.
- (4) Active membership in service or social clubs.
- (5) Presence of spouse, children or other close relatives in the state.
- (6) Showing California as home address on federal income tax form.
- (7) Payment of California state income tax as a resident.
- (8) Possessing California motor vehicle license plates.
- (9) Possessing a California driver's license.
- (10) Maintaining permanent military address or home of record in California while in armed forces.

(11) Establishing and maintaining active California bank accounts.

(12) Being the petitioner for a divorce in California.

(f) Conduct inconsistent with a claim of California residence includes but is not limited to:

- (1) Maintaining voter registration and voting in another state.
- (2) Being the petitioner for a divorce in another state.
- (3) Attending an out-of-state institution as a resident of that other state.
- (4) Declaring nonresidence for state income tax purposes.

NOTE: Authority cited: Sections 66700, 68044, 68090 and 71020, Education Code. Reference: Sections 68017, 68060, 68061 and 68062, Education Code.

54026. Burden.

The burden is on the student to demonstrate clearly both physical presence in California and intent to establish California residence.

NOTE: Authority cited: Sections 66700, 68044, 68090 and 71020, Education Code. Reference: Section 68041, Education Code.

54028. One-Year Waiting Period.

The one-year residence period which a student must meet to be classified as a resident does not begin to run until the student both is present in California and has manifested clear intent to become a California resident.

NOTE: Authority cited: Sections 66700, 68044, 68090 and 71020, Education Code. Reference: Sections 68017, 68060, 68061 and 68062, Education Code.

54030. Reestablished Residence.

If a student or the parents of a minor student relinquish California residence after moving from the state, one full year of physical presence, coupled with one full year of demonstrated intent to be a California resident, is required to reestablish residence for tuition purposes, except as provided in Education Code Section 68070.

NOTE: Authority cited: Sections 66700, 68044, 68090 and 71020, Education Code. Reference: Sections 68017, 68060, 68061 and 68062, Education Code.

54032. Financial Independence.

(a) A student seeking reclassification as a resident, who was classified as a nonresident in the preceding term, shall be determined financially independent or dependent in accordance with Education Code Section 68044.

(b) A student who has established financial independence may be reclassified as a resident if the student has met the requirements of Section 54020 for one year prior to the residence determination date.

(c) In determining whether the student has objectively manifested intent to establish California residence, financial independence shall weigh in favor of finding California residence, and financial dependence shall weigh against finding California residence.

(d) Financial dependence in the current or preceding calendar year shall weigh more heavily against finding California residence than shall financial dependence in earlier calendar years. Financial dependence in the current or preceding calendar year shall be overcome only if (1) the parent on whom the student is dependent is a California resident, or (2) there is no evidence of the student's continuing residence in another state.

NOTE: Authority cited: Sections 66700, 68044, 68090 and 71020, Education Code. Reference: Section 68044, Education Code.

54040. Self-Supporting Exception.

Any student claiming application of the self-supporting exception pursuant to Education Code Section 68071 shall provide evidence to the admissions officer such as: documentation, including W-2 forms or a letter from the employer, showing earnings for the year immediately preceding the residence determination date of attendance, a statement that the student has actually been present in California for said year (short absences from the state for business or pleasure will not preclude the accumulation of time), and a statement showing all expenses of the student for said year.

NOTE: Authority cited: Sections 66700, 68044, 68090 and 71020, Education Code. Reference: Sections 68044, 68071 and 68090, Education Code.

54041. Military Dependent.

A dependent natural or adopted child, stepchild or spouse of a member of the armed forces of the United States claiming residence status pursuant to Section 68074 of the Education Code shall provide the college admissions officer with a statement from the military person's commanding officer or personnel officer that the military person's duty station is in California on active duty as of the residence determination date; or that the military person is outside of California on active duty after having been transferred immediately and directly from a California duty station after the residence determination date; or that the military person has, after the residence determination date, retired as an active member of the armed forces of the United States. A statement that the student is a dependent of the military person for an exemption on federal taxes shall also be provided.

NOTE: Authority cited: Sections 66700, 68044, 68090 and 71020, Education Code. Reference: Sections 68044 and 68074, Education Code.

HISTORY:

1. Amendment filed 6-8-83; effective thirtieth day thereafter (Register 83, No. 24).

54042. Member of Military.

A student claiming application of Section 68075 of the Education Code must provide the admissions officer with a statement from the student's commanding officer or personnel officer that the assignment to active duty in this state is not for educational purposes. The student should also produce evidence of the date of assignment to California.

NOTE: Authority cited: Sections 66700, 68044, 68090 and 71020, Education Code. Reference: Sections 68044 and 68075, Education Code.

54045. Refugees.

A student claiming exemption from nonresident tuition pursuant to Education Code Section 84521.6 shall provide the admissions officer with documentation from the Immigration and Naturalization Service evidencing that the student is a refugee and shall establish that he or she has been a California resident for one year in accordance with Sections 54020, 54022 and 54024.

NOTE: Authority cited: Sections 66700, 68044, 68090 and 71020, Education Code. Reference: Section 84521.6, Education Code.

54046. Public School Employee Holding Valid Credential.

A student claiming residence status pursuant to Section 68078 of the Education Code shall provide the admissions officer with a statement from the employer showing employment by a public school in a full-time position requiring certification qualifications for the college year in which the student enrolls. The student must also show that he or she holds a credential and will enroll in courses necessary to obtain another type of credential authorizing service in the public schools, or that the student holds a credential issued pursuant to Section 87274 of the Education Code and is enrolled in courses necessary to fulfill credential requirements.

NOTE: Authority cited: Sections 66700, 68044, 68090 and 71020, Education Code. Reference: Sections 68044 and 68078, Education Code.

54047. Student Under Custody of Resident Adult.

A student claiming residence under provisions of Section 68073 of the Education Code shall provide the college admissions officer with evidence that the adult or adults with whom the student has resided has had California residence for 1 year immediately preceding the residence determination date, and further evidence that the student has resided with such adult or adults for a period of not fewer than 2 years.

NOTE: Authority cited: Sections 66700, 68044 and 68090, Education Code. Reference: Sections 68044 and 68073, Education Code.

54048. Agricultural Employment.

A student claiming residence pursuant to Section 68100 of the Education Code shall provide the admissions officer with either (a) or (b):

(a) Evidence that the student's parent with whom the student is living earns a livelihood primarily by performing agricultural labor for hire in California and other states and has performed such labor in California for at least two months in each of the preceding two years, and that the parent lives within the district. If the parent of such student had sufficient income to incur personal income tax liability for federal and/or state purposes, proof that the student was claimed as a dependent on federal or state personal income tax returns shall also be required.

(b) Evidence showing the student himself or herself earns a livelihood primarily by performing agricultural labor for hire in California and other states and that such labor has been performed in California for at least two months in each of the preceding two years.

As used in this section agricultural labor for hire means seasonal employment in connection with actual production of agricultural crops, including seeding, thinning and harvesting.

NOTE: Authority cited: Sections 66700, 68044, 68040 and 68100, Education Code. Reference: Sections 68044 and 68100, Education Code.

54050. Exceptions from the One-Year Waiting Period.

Those exceptions from payment of nonresident tuition provided by Education Code Sections 68074 (military dependents) and 68075 (military members) apply only during the first year of the student's current physical presence in California.

NOTE: Authority cited: Sections 66700, 68044 and 68090, Education Code. Reference: Sections 68044, 68074 and 68075, Education Code.

54060. Appeal Procedure.

(a) A community college district shall notify each student of the student's residence classification not later than fourteen (14) calendar days after the beginning of the session for which the student has applied, or fourteen (14) calendar days after the student's application for admission, whichever is later.

(b) Any student, following a decision on residence classification by the college, may make written appeal of that decision. Each community college district shall establish procedures for appeals of residence classifications.

(c) The Chancellor will advise community college districts on issues in residence classification. However, the student shall have no right of appeal to the Chancellor or Board of Governors.

NOTE: Authority cited: Sections 66700, 68044 and 68090, Education Code. Reference: Sections 68044 and 68090, Education Code.

54070. Refunds.

The governing board of each community college district shall adopt rules providing for refund of the following nonresident tuition fees:

(a) Those collected in error.

(b) Those refundable as a result of a reduction of the educational program at the community college for which the fees have been paid.

(c) Those refundable as a result of the student's reduction of units or the student's withdrawal from an education program at the community college for which fees have been paid, where reduction or withdrawal is for reasons deemed sufficient by the district governing board.

NOTE: Authority cited: Sections 66700, 68044 and 68090, Education Code. Reference: Sections 68044 and 68090, Education Code.

54072. Waiver.

The community college district may waive nonresident tuition fees which were not collected in a previous session where:

(a) The fees were not collected as a result of the district's error and not through the fault of the student, and

(b) To collect the fees would cause the student undue hardship. No state funds may be collected for the attendance of a student for whom fees were waived pursuant to this section.

NOTE: Authority cited: Sections 66700, 68044 and 68090, Education Code. Reference: Sections 68044 and 68090, Education Code.

HISTORY:

1. New section filed 6-8-83; effective thirtieth day thereafter (Register 83, No. 24).

Register 86-10

§ 54045

TITLE 5**CALIFORNIA COMMUNITY COLLEGES****§ 54048****(p. 638.1)****(Register 86, No. 10—3-3-86)****54045. Alien Students.**

An alien not precluded from establishing domicile in the United States by the Immigration and Nationality Act (8 U.S.C. 1101, et seq.) shall be classified as a resident or nonresident pursuant to the provisions of this chapter.

An alien is precluded from establishing domicile in the United States if the alien is in the United States under an unexpired visa which requires that the alien have a residence outside the United States or that he or she enter the United States solely for some temporary purpose. An alien who is precluded for establishing domicile in the United States shall not be classified as a resident.

NOTE: Authority cited: Sections 66700, 68044, 68090 and 71020, Education Code. Reference: Section 68062(h), Education Code; 8 USC 1101 (a) (15); and *Toll v. Moreno*, 458 U.S. 1 (1982).

HISTORY:

1. Repealer and new section filed 3-3-86; effective thirtieth day thereafter (Register 86, No. 10).

54046. Public School Employee Holding Valid Credential.

A student claiming residence status pursuant to Section 68078 of the Education Code shall provide the admissions officer with a statement from the employer showing employment by a public school in a full-time position requiring certification qualifications for the college year in which the student enrolls. The student must also show that he or she holds a credential and will enroll in courses necessary to obtain another type of credential authorizing service in the public schools, or that the student holds a credential issued pursuant to Section 87274 of the Education Code and is enrolled in courses necessary to fulfill credential requirements.

NOTE: Authority cited: Sections 66700, 68044, 68090 and 71020, Education Code. Reference: Sections 68044 and 68078, Education Code.

54047. Student Under Custody of Resident Adult.

A student claiming residence under provisions of Section 68073 of the Education Code shall provide the college admissions officer with evidence that the adult or adults with whom the student has resided has had California residence for 1 year immediately preceding the residence determination date, and further evidence that the student has resided with such adult or adults for a period of not fewer than 2 years.

NOTE: Authority cited: Sections 66700, 68044 and 68090, Education Code. Reference: Sections 68044 and 68073, Education Code.

54048. Agricultural Employment.

A student claiming residence pursuant to Section 68100 of the Education Code shall provide the admissions officer with either (a) or (b):

(a) Evidence that the student's parent with whom the student is living earns a livelihood primarily by performing agricultural labor for hire in California and other states and has performed such labor in California for at least two months in each of the preceding two years, and that the parent lives within the district. If the parent of such student had sufficient income to incur personal income tax liability for federal and/or state purposes, proof that the student was claimed as a dependent on federal or state personal income tax returns shall also be required.

(b) Evidence showing the student himself or herself earns a livelihood primarily by performing agricultural labor for hire in California and other states and that such labor has been performed in California for at least two months in each of the preceding two years.

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(p. 638.2)

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(Register 83, No. 19—3-8-86)

As used in this section agricultural labor for hire means seasonal employment in connection with actual production of agricultural crops, including seeding, thinning and harvesting.

NOTE: Authority cited: Sections 66700, 68044, 68040 and 68100, Education Code. Reference: Sections 68044 and 68100, Education Code.

54050. Exceptions from the One-Year Waiting Period.

Those exceptions from payment of nonresident tuition provided by Education Code Sections 68074 (military dependents) and 68075 (military members) apply only during the first year of the student's current physical presence in California.

NOTE: Authority cited: Sections 66700, 68044 and 68090, Education Code. Reference: Sections 68044, 68074 and 68075, Education Code.

54060. Appeal Procedure.

(a) A community college district shall notify each student of the student's residence classification not later than fourteen (14) calendar days after the beginning of the session for which the student has applied, or fourteen (14) calendar days after the student's application for admission, whichever is later.

(b) Any student, following a decision on residence classification by the college, may make written appeal of that decision. Each community college district shall establish procedures for appeals of residence classifications.

(c) The Chancellor will advise community college districts on issues in residence classification. However, the student shall have no right of appeal to the Chancellor or Board of Governors.

NOTE: Authority cited: Sections 66700, 68044 and 68090, Education Code. Reference: Sections 68044 and 68090, Education Code.

54070. Refunds.

The governing board of each community college district shall adopt rules providing for refund of the following nonresident tuition fees:

- (a) Those collected in error.
- (b) Those refundable as a result of a reduction of the educational program at the community college for which the fees have been paid.
- (c) Those refundable as a result of the student's reduction of units or the student's withdrawal from an education program at the community college for which fees have been paid, where reduction or withdrawal is for reasons deemed sufficient by the district governing board.

NOTE: Authority cited: Sections 66700, 68044 and 68090, Education Code. Reference: Sections 68044 and 68090, Education Code.

54072. Waiver.

The community college district may waive nonresident tuition fees which were not collected in a previous session where:

- (a) The fees were not collected as a result of the district's error and not through the fault of the student, and
- (b) To collect the fees would cause the student undue hardship. No state funds may be collected for the attendance of a student for whom fees were waived pursuant to this section.

NOTE: Authority cited: Sections 66700, 68044 and 68090, Education Code. Reference: Sections 68044 and 68090, Education Code.

HISTORY:

1. New section filed 6-8-83; effective thirtieth day thereafter (Register 83, No. 24).

Register 91-23

§ 54002	§54041
§ 54010	§54042
§ 54012	§54045
§ 54020	§54046
§ 54022	§54050
§ 54024	§54060
§ 54026	§54070
§ 54028	
§ 54030	
§ 54032	

HISTORY

1. New section filed 6-5-90 by the Board of Governors, California Community Colleges, with the Secretary of State; operative 7-5-90. Submitted to OAL for printing only pursuant to Education Code section 70901.5(b) (Register 90, No. 37).

§ 53530. Use of Bond Proceeds.

Any funds derived from the sale of the bonds issued by the former district shall be used for the acquisition, construction, or improvement of college property only in the territory which comprised the former district or to discharge the bonded indebtedness of the former district, except that if the bonded indebtedness is assumed by the new district, the funds may be used in any area of the new district for the purposes for which the bonds were originally voted.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 53540. Territory of District Becoming Part of Two or More Districts; Disposition of Records.

If all the territory of any district becomes part of two or more districts, and the inclusion in the two or more districts of the several portions of territory comprising the whole of the original district is effective for all purposes on the same date, the records of the original district shall be disposed of as follows:

(a) All records of the original district which are required by law to be kept on file shall be deposited with the governing board of the district which, after the reorganization has become effective for all purposes, has located within its boundaries the former office of the superintendent of the original district.

(b) Records of employees shall be transferred to the district thereafter employing the personnel or thereafter maintaining the last place of employment.

(c) Records of students shall be transferred to the district which, after the date on which the reorganization becomes effective for all purposes, maintains the college in which a student was last enrolled.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

Chapter 5. Students**Subchapter 1. Student Residence Classification****§ 54000. Uniform Residency Requirements.**

The provisions of this chapter implement and should be read in conjunction with the Uniform Residency Requirements contained in part 41 (commencing with section 68000) of the Education Code.

NOTE: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Part 41 (commencing with Section 68000), Education Code.

HISTORY

1. Repealer of chapter 1 (sections 54000, 54001, 54100, 54101) and new chapter 1 (sections 54000 through 54082, not consecutive) filed 6-25-73 as an emergency; effective upon filing. Certificate of Compliance included (Register 73, No. 26). For prior history, see Register 70, No. 16.
2. Amendment of NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
3. Repealer of chapter 1 (sections 54000-54082, not consecutive) and new chapter 1 (sections 54000-54070, not consecutive) filed 11-22-82; effective thirtieth day thereafter (Register 82, No. 48). For prior history, see Registers 79, No. 46; 77, No. 45; 74, No. 45; 74, No. 10; and 73, No. 44.
4. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 54001. Adoption of Rules and Regulations; Publication; Uniformity.

The residence determination date and a summary of the rules and regulations adopted by the Board of Governors and district governing boards pursuant to chapter 1 part 41 of division 5 of the Education Code, commencing with section 68000 shall be published in the district catalogs. The statute law and the rules and regulations adopted by the Board of Governors and the district shall be made available to the students at each district.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 54002. Residence Determination Date.

"Residence determination date" is that day immediately preceding the opening day of instruction of the quarter, semester, or other session as set by the district governing board, during which the student proposes to attend a college.

NOTE: Authority cited: Sections 66700, 68023, 68044, and 70901, Education Code. Reference: Section 68023, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 54010. Residence Classification Procedures.

(a) Residence classification shall be made for each student at the time applications for admission are accepted and whenever a student has not been in attendance for more than one semester or quarter. A student previously classified as a nonresident may be reclassified as of any residence determination date.

(b) The student shall be required to present evidence of physical presence in California, intent to make California the home for other than a temporary purpose and, if the student was classified as a nonresident in the preceding term, financial independence.

(c) Community college districts shall require applicants to supply information as specified in this chapter and may require additional information as deemed necessary.

(d) The district shall weigh the information provided by the student and determine whether the student has clearly established that he or she has been a resident of California for one year prior to the residence determination date.

(e) Applicants shall certify their answers on residence questionnaires under oath or penalty of perjury.

NOTE: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Sections 68044 and 68062, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 54012. Residence Questionnaires.

(a) Each community college district shall use a residence questionnaire in making residence classifications.

(b) The residence questionnaire shall ask each student where the student has maintained his or her home for the last two years and whether the student has engaged in any activity listed in subsection (f) of section 54024.

(c) The questionnaire shall ask each student under 19 years of age where the parent has lived for the last two years and whether the parent has engaged in any activity listed in subsection (f) of section 54024.

(d) If the student, or the student's parent if the student is under age 19, has either maintained a home outside of California at any time during the last two years, or has engaged in any activity listed in subsection (f) of section 54024, the student shall be asked for additional evidence of intent to reside in California such as that identified in subsection (e) of section 54024.

(e) The Chancellor shall provide a sample residence questionnaire which districts may use in complying with this requirement.

Note: Authority cited: Sections 66700, 68044 and 70901, Education Code. Reference: Sections 68044 and 68062, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 54020. Residence.

In order to establish a residence, it is necessary that there be a union of fact and intent. To establish residence, a person capable of establishing residence in California must couple his or her physical presence in California with objective evidence that the physical presence is with the intent to make California the home for other than a temporary purpose.

Note: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Sections 68017, 68060, 68061 and 68062, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 54022. Physical Presence.

(a) A person capable of establishing residence in California must be physically present in California for one year prior to the residence determination date to be classified as a resident student.

(b) A temporary absence for business, education or pleasure will not result in loss of California residence if, during the absence, the person always intended to return to California and did nothing inconsistent with that intent.

(c) Physical presence within the state solely for educational purposes does not constitute establishing California residence regardless of the length of that presence.

Note: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Sections 68017, 68023, 68060, 68061 and 68062, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 54024. Intent.

(a) Intent to make California the home for other than a temporary purpose may be manifested in many ways. No one factor is controlling.

(b) A student who is 19 years of age or over, and who has maintained a home in California continuously for the last two years shall be presumed to have the intent to make California the home for other than a temporary purpose unless the student has evidenced a contrary intent by having engaged in any of the activities listed in subsection (f) of this section.

(c) A student who is under 19 years of age shall be presumed to have the intent to make California the home for other than a temporary purpose if both the student and his parent have maintained a home in California continuously for the last two years unless the student has evidenced a contrary intent by having engaged in any of the activities listed in subsection (f) of this section.

(d) A student who does not meet the requirements of subsection (b) or subsection (c) of this section shall be required to provide evidence of intent to make California the home for other than a temporary purpose as specified in subsection (e) of this section.

(e) Objective manifestations of intent to establish California residence include but are not limited to:

- (1) Ownership of residential property or continuous occupancy of rented or leased property in California.
- (2) Registering to vote and voting in California.
- (3) Licensing from California for professional practice.
- (4) Active membership in service or social clubs.
- (5) Presence of spouse, children or other close relatives in the state.
- (6) Showing California as home address on federal income tax form.
- (7) Payment of California state income tax as a resident.
- (8) Possessing California motor vehicle license plates.
- (9) Possessing a California driver's license.
- (10) Maintaining permanent military address or home of record in California while in armed forces.

- (11) Establishing and maintaining active California bank accounts.
- (12) Being the petitioner for a divorce in California.
- (f) Conduct inconsistent with a claim of California residence includes but is not limited to:

- (1) Maintaining voter registration and voting in another state.
- (2) Being the petitioner for a divorce in another state.
- (3) Attending an out-of-state institution as a resident of that other state.

- (4) Declaring nonresidence for state income tax purposes.

Note: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Sections 68017, 68060, 68061 and 68062, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 54026. Burden.

The burden is on the student to demonstrate clearly both physical presence in California and intent to establish California residence.

Note: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Section 68041, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 54028. One-Year Waiting Period.

The one-year residence period which a student must meet to be classified as a resident does not begin to run until the student both is present in California and has manifested clear intent to become a California resident.

Note: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Sections 68017, 68060, 68061 and 68062, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 54030. Reestablished Residence.

If a student or the parents of a minor student relinquish California residence after moving from the state, one full year of physical presence, coupled with one full year of demonstrated intent to be a California resident, is required to reestablish residence for tuition purposes, except as provided in Education Code section 68070.

Note: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Sections 68017, 68060, 68061 and 68062, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 54032. Financial Independence.

(a) A student seeking reclassification as a resident, who was classified as a nonresident in the preceding term, shall be determined financially independent or dependent in accordance with Education Code section 68044.

(b) A student who has established financial independence may be reclassified as a resident if the student has met the requirements of section 54020 for one year prior to the residence determination date.

(c) In determining whether the student has objectively manifested intent to establish California residence, financial independence shall weigh in favor of finding California residence, and financial dependence shall weigh against finding California residence.

(d) Financial dependence in the current or preceding calendar year shall weigh more heavily against finding California residence than shall financial dependence in earlier calendar years. Financial dependence in the current or preceding calendar year shall be overcome only if

- (1) the parent on whom the student is dependent is a California resident, or
- (2) there is no evidence of the student's continuing residence in another state.

Note: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Section 68044, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 54040. Self-Supporting Exception.

Any student claiming application of the self-supporting exception pursuant to Education Code section 68071 shall provide evidence such as: documentation, including W-2 forms or a letter from the employer, showing earnings for the year immediately preceding the residence determination date of attendance, a statement that the student has actually been present in California for said year (short absences from the state for business or pleasure will not preclude the accumulation of time), and a statement showing all expenses of the student for said year.

NOTE: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Sections 68044 and 68071, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 54041. Military Dependent.

A dependent natural or adopted child, stepchild or spouse of a member of the armed forces of the United States claiming residence status pursuant to section 68074 of the Education Code shall provide a statement from the military person's commanding officer or personnel officer that the military person's duty station is in California on active duty as of the residence determination date; or that the military person is outside of California on active duty after having been transferred immediately and directly from a California duty station after the residence determination date; or that the military person has, after the residence determination date, retired as an active member of the armed forces of the United States. A statement that the student is a dependent of the military person for an exemption on federal taxes shall also be provided.

NOTE: Authority cited: Sections 66700, 68044 and 70901, Education Code. Reference: Sections 68044 and 68074, Education Code.

HISTORY

1. Amendment filed 6-8-83; effective thirtieth day thereafter (Register 83, No. 24).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 54042. Member of Military.

A student claiming application of section 68075 of the Education Code must provide a statement from the student's commanding officer or personnel officer that the assignment to active duty in this state is not for educational purposes. The student should also produce evidence of the date of assignment to California.

NOTE: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Sections 68044 and 68075, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 54045. Alien Students.

An alien not precluded from establishing domicile in the United States by the Immigration and Nationality Act (8 U.S.C. 1101, et seq.) shall be classified as a resident or nonresident pursuant to the provisions of this chapter.

An alien is precluded from establishing domicile in the United States if the alien is in the United States under an unexpired visa which requires that the alien have a residence outside the United States or that he or she enter the United States solely for some temporary purpose. An alien who is precluded for establishing domicile in the United States shall not be classified as a resident.

NOTE: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Section 68062(h), Education Code; 8 USC 1101(a)(15); and *Tell v. Moreno*, U.S. 1 (1982).

HISTORY

1. Repealer and new section filed 3-3-86; effective thirtieth day thereafter (Register 86, No. 10).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 54046. Public School Employee Holding Valid Credential.

A student claiming residence status pursuant to section 68078 of the Education Code shall provide a statement from the employer showing employment by a public school in a full-time position requiring certification qualifications for the college year in which the student enrolls. The student must also show that he or she holds a credential and will enroll in courses necessary to obtain another type of credential authorizing service in the public schools, or that the student holds a credential issued by the Board of Governors and is enrolled in courses necessary to fulfill credential requirements.

NOTE: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Sections 68044 and 68078, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 54047. Student Under Custody of Resident Adult.

A student claiming residence under provisions of section 68073 of the Education Code shall provide with evidence that the adult or adults with whom the student has resided has had California residence for 1 year immediately preceding the residence determination date, and further evidence that the student has resided with such adult or adults for a period of not fewer than 2 years.

NOTE: Authority cited: Sections 66700 and 68044, Education Code. Reference: Sections 68044 and 68073, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 54048. Agricultural Employment.

A student claiming residence shall provide either (a) or (b):

(a) Evidence that the student's parent with whom the student is living earns a livelihood primarily by performing agricultural labor for hire in California and other states and has performed such labor in California for at least two months in each of the preceding two years, and that the parent lives within the district. If the parent of such student had sufficient income to incur personal income tax liability for federal and/or state purposes, proof that the student was claimed as a dependent on federal or state personal income tax returns shall also be required.

(b) Evidence showing the student himself or herself earns a livelihood primarily by performing agricultural labor for hire in California and other states and that such labor has been performed in California for at least two months in each of the preceding two years.

As used in this section agricultural labor for hire means seasonal employment in connection with actual production of agricultural crops, including seeding, thinning and harvesting.

NOTE: Authority cited: Sections 66700, 68044, 68040 and 68100, Education Code. Reference: Sections 68044, 68100 and 78034, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 54050. Exceptions from the One-Year Waiting Period.

Those exceptions from payment of nonresident tuition provided by Education Code sections 68074 (military dependents) and 68075 (military members) apply only during the first year of the student's current physical presence in California.

NOTE: Authority cited: Sections 66700 and 68044, Education Code. Reference: Sections 68044, 68074 and 68075, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 54060. Appeal Procedure.

(a) A community college district shall notify each student of the student's residence classification not later than fourteen (14) calendar days after the beginning of the session for which the student has applied, or fourteen (14) calendar days after the student's application for admission, whichever is later.

(b) Any student, following a decision on residence classification by the college, may make written appeal of that decision. Each community college district shall establish procedures for appeals of residence classifications.

(c) The Chancellor will advise community college districts on issues in residence classification. However, the student shall have no right of appeal to the Chancellor or Board of Governors.

NOTE: Authority cited: Sections 66700 and 68044, Education Code. Reference: Sections 68040, 68044 and 78034, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 54070. Refunds.

The governing board of each community college district shall adopt rules providing for refund of the following nonresident tuition fees:

- (a) Those collected in error.
- (b) Those refundable as a result of a reduction of the educational program at the community college for which the fees have been paid.
- (c) Those refundable as a result of the student's reduction of units or the student's withdrawal from an education program at the community college for which fees have been paid, where reduction or withdrawal is for reasons deemed sufficient by the governing board.

NOTE: Authority cited: Sections 66700, 68044 and 68051, Education Code. Reference: Sections 68044 and 68051, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 54072. Waiver.

The community college district may waive nonresident tuition fees which were not collected in a previous session where:

- (a) The fees were not collected as a result of the district's error and not through the fault of the student, and
- (b) To collect the fees would cause the student undue hardship. No state funds may be collected for the attendance of a student for whom fees were waived pursuant to this section.

NOTE: Authority cited: Sections 66700, 68044 and 68051, Education Code. Reference: Section 68044, Education Code.

HISTORY

1. New section filed 6-8-83; effective thirtieth day thereafter (Register 83, No. 24).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

Subchapter 2. Reports

HISTORY

1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
2. Repealer of Chapter 2 (Section 54150) filed 7-29-82; effective thirtieth day thereafter (Register 82, No. 31).

Subchapter 2.5. Medical Insurance for Hazardous Activities

NOTE: Authority cited: Sections 71020, 72246.5, Education Code. Reference: Section 72246.5, Education Code.

HISTORY

1. New Chapter 2.5 (Articles 1-3, Sections 54161-54184, not consecutive) filed 12-13-78 as an emergency; effective upon filing. Certificate of Compliance included (Register 78, No. 50).
2. Repealer of Chapter 2.5 (Sections 54160-54184) filed 11-15-79; effective thirtieth day thereafter (Register 79, No. 46).

Subchapter 3. Attendance

NOTE: Authority cited: Sections 66700, 71020, 76300, 78405, 84500.1, and 84530, Education Code. Reference: Sections 8512, 76300, 78203, 78412, 84500, 84500.1, 84500.5, and 84530, Education Code.

HISTORY

1. Repealer of Chapter 3 (Subchapters 1 and 2, Sections 54200-54222, not consecutive) and new Chapter 3 (Articles 1 and 2, Sections 54180-54228, not consecutive) filed 8-12-80; effective thirtieth day thereafter (Register 80, No. 33). For prior history, see Registers 79, No. 46; 77, No. 45; and 74, No. 10.
2. Repealer of Chapter 3 (Articles 1 and 2, Sections 54180-54228, not consecutive) filed 7-29-82; effective thirtieth day thereafter (Register 82, No. 31). For prior history, see Register 81, No. 3.

§ 54200. Certain Students' Residences More than 60 Miles from Nearest Attendance Center.

Any student under 21 years of age, and any student under 25 years of age who has been honorably discharged or is otherwise returning from active or inactive military service within the armed forces of the United States, who resides in this state and more than 60 miles from the nearest community college measured by the usual vehicular route between the student's home and the college, may request to attend credit courses at any community college in the state, whether or not the student's residence is in a district maintaining a community college. The governing board of the district maintaining the community college designated by the student shall admit the student provided all requirements for admission are met.

The provisions of this section shall not apply to any student residing in a district maintaining a community college if that district maintains adequate dormitories or housing facilities or provides adequate transportation for the student between the student's home and community college attendance center.

If the student resides within territory not included within any community college district and resides more than 60 miles from the nearest community college, measured by the usual vehicular route between the student's home and the attendance center, there shall be paid to the parents or other persons having charge or control of the student and directly to adult students and married minors, by the district in which the student attends, a maintenance allowance not to exceed four dollars (\$4) per calendar day, including weekends and school holidays, for the portion of a semester, quarter, or other session or term in which the student is enrolled full time in credit classes in a community college under this section. Community college districts shall receive reimbursement from the Chancellor's Office for allowances paid to students from nondistrict territory for the prior fiscal year not to exceed the maximum amount as provided by law.

No later than 60 days after the close of each fiscal year the Chancellor shall determine the daily allowance rate for the prior fiscal year. If claims made by community colleges exceed total funds raised by nondistrict territories for that purpose prior to July 1, 1978, the Chancellor shall prorate the allowances made under this section. No later than 90 days after the close of each fiscal year the community college districts shall pay eligible students at the rate prescribed by the Chancellor and verification of the claims by the appropriate county superintendent of schools.

The Chancellor shall prescribe procedures for the submission of claims by community college districts.

For the purpose of this section, a person shall be deemed to be honorably discharged from the armed forces (a) if he or she was honorably discharged from the armed forces of the United States or (b) if he or she was inducted into the armed forces of the United States under the "Universal Military Training and Service Act," and

(1) satisfactorily completes his or her period of training and service under that act and is issued a certificate to that effect pursuant to that act, or

(2) having served honorably on active duty was transferred to a reserve component of the armed forces of the United States pursuant to that act, or

(3) was otherwise released pursuant to that act under honorable conditions.

For the purposes of this section, the term "armed forces of the United States" shall include all regular and reserve components of the uniformed services which are subject to the jurisdiction of the Secretary of Defense,

Register 92-04

§ 54045

NOTE: Authority cited: Sections 66700, 68044 and 70901, Education Code. Reference: Sections 68044 and 68062, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 54020. Residence.

In order to establish a residence, it is necessary that there be a union of act and intent. To establish residence, a person capable of establishing residence in California must couple his or her physical presence in California with objective evidence that the physical presence is with the intent to make California the home for other than a temporary purpose.

NOTE: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Sections 68017, 68060, 68061 and 68062, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 54022. Physical Presence.

(a) A person capable of establishing residence in California must be physically present in California for one year prior to the residence determination date to be classified as a resident student.

(b) A temporary absence for business, education or pleasure will not result in loss of California residence if, during the absence, the person always intended to return to California and did nothing inconsistent with that intent.

(c) Physical presence within the state solely for educational purposes does not constitute establishing California residence regardless of the length of that presence.

NOTE: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Sections 68017, 68023, 68060, 68061 and 68062, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 54024. Intent.

(a) Intent to make California the home for other than a temporary purpose may be manifested in many ways. No one factor is controlling.

(b) A student who is 19 years of age or over, and who has maintained a home in California continuously for the last two years shall be presumed to have the intent to make California the home for other than a temporary purpose unless the student has evidenced a contrary intent by having engaged in any of the activities listed in subsection (f) of this section.

(c) A student who is under 19 years of age shall be presumed to have the intent to make California the home for other than a temporary purpose if both the student and his parent have maintained a home in California continuously for the last two years unless the student has evidenced a contrary intent by having engaged in any of the activities listed in subsection (f) of this section.

(d) A student who does not meet the requirements of subsection (b) or subsection (c) of this section shall be required to provide evidence of intent to make California the home for other than a temporary purpose as specified in subsection (e) of this section.

(e) Objective manifestations of intent to establish California residence include but are not limited to:

- (1) Ownership of residential property or continuous occupancy of rented or leased property in California.
- (2) Registering to vote and voting in California.
- (3) Licensing from California for professional practice.
- (4) Active membership in service or social clubs.
- (5) Presence of spouse, children or other close relatives in the state.
- (6) Showing California as home address on federal income tax form.
- (7) Payment of California state income tax as a resident.
- (8) Possessing California motor vehicle license plates.
- (9) Possessing a California driver's license.
- (10) Maintaining permanent military address or home of record in California while in armed forces.

(11) Establishing and maintaining active California bank accounts.

(12) Being the petitioner for a divorce in California.

(f) Conduct inconsistent with a claim of California residence includes but is not limited to:

(1) Maintaining voter registration and voting in another state.

(2) Being the petitioner for a divorce in another state.

(3) Attending an out-of-state institution as a resident of that other state.

(4) Declaring nonresidence for state income tax purposes.

NOTE: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Sections 68017, 68060, 68061 and 68062, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 54026. Burden.

The burden is on the student to demonstrate clearly both physical presence in California and intent to establish California residence.

NOTE: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Section 68041, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 54028. One-Year Waiting Period.

The one-year residence period which a student must meet to be classified as a resident does not begin to run until the student both is present in California and has manifested clear intent to become a California resident.

NOTE: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Sections 68017, 68060, 68061 and 68062, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 54030. Reestablished Residence.

If a student or the parents of a minor student relinquish California residence after moving from the state, one full year of physical presence, coupled with one full year of demonstrated intent to be a California resident, is required to reestablish residence for tuition purposes, except as provided in Education Code section 68070.

NOTE: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Sections 68017, 68060, 68061 and 68062, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 54032. Financial Independence.

(a) A student seeking reclassification as a resident, who was classified as a nonresident in the preceding term, shall be determined financially independent or dependent in accordance with Education Code section 68044.

(b) A student who has established financial independence may be reclassified as a resident if the student has met the requirements of section 54020 for one year prior to the residence determination date.

(c) In determining whether the student has objectively manifested intent to establish California residence, financial independence shall weigh in favor of finding California residence, and financial dependence shall weigh against finding California residence.

(d) Financial dependence in the current or preceding calendar year shall weigh more heavily against finding California residence than shall financial dependence in earlier calendar years. Financial dependence in the current or preceding calendar year shall be overcome only if

(1) the parent on whom the student is dependent is a California resident, or

(2) there is no evidence of the student's continuing residence in another state.

NOTE: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Section 68044, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 54040. Self-Supporting Exception.

Any student claiming application of the self-supporting exception pursuant to Education Code section 68071 shall provide evidence such as: documentation, including W-2 forms or a letter from the employer, showing earnings for the year immediately preceding the residence determination date of attendance, a statement that the student has actually been present in California for said year (short absences from the state for business or pleasure will not preclude the accumulation of time), and a statement showing all expenses of the student for said year.

NOTE: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Sections 68044 and 68071, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 54041. Military Dependent.

A dependent natural or adopted child, stepchild or spouse of a member of the armed forces of the United States claiming residence status pursuant to section 68074 of the Education Code shall provide a statement from the military person's commanding officer or personnel officer that the military person's duty station is in California on active duty as of the residence determination date; or that the military person is outside of California on active duty after having been transferred immediately and directly from a California duty station after the residence determination date; or that the military person has, after the residence determination date, retired as an active member of the armed forces of the United States. A statement that the student is a dependent of the military person for an exemption on federal taxes shall also be provided.

NOTE: Authority cited: Sections 66700, 68044 and 70901, Education Code. Reference: Sections 68044 and 68074, Education Code.

HISTORY

1. Amendment filed 6-8-83; effective thirtieth day thereafter (Register 83, No. 24).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 54042. Member of Military.

A student claiming application of section 68075 of the Education Code must provide a statement from the student's commanding officer or personnel officer that the assignment to active duty in this state is not for educational purposes. The student should also produce evidence of the date of assignment to California.

NOTE: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Sections 68044 and 68075, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 54045. Alien Students.

An alien not precluded from establishing domicile in the United States by the Immigration and Nationality Act (8 U.S.C. 1101, et seq.) shall be classified as a resident or nonresident pursuant to the provisions of this chapter.

An alien is precluded from establishing domicile in the United States if the alien entered the United States illegally or under a visa which requires that the alien have a residence outside the United States or that he or she enter the United States solely for some temporary purpose. An alien who is precluded for establishing domicile in the United States shall not be classified as a resident unless and until he or she has been granted a change of status by the Immigration and Naturalization Service to a classification which permits establishing domicile and has, thereafter, met the requirements of Sections 54020-24 related to physical presence and intent to make California home for other than a temporary purpose. Undocumented aliens who are classified as California residents by any college in a district for the fall 1991 term shall not be subject to reclassification so long as they remain continuously enrolled, as defined in Educa-

tion Code 68016, in the district, regardless of which college within the district is attended.

NOTE: Authority cited: Sections 66700, 68044 and 70901, Education Code. Reference: Section 68062(h), Education Code; 8 USC 1101(a) (15); *Toll v. Moreno*, 458 U.S. 1 (1982); and *Regents of the University of California v. Bradford*, 225 Cal. App. 3rd, 972, 276 Cal. Rptr. 197 (1990).

HISTORY

1. Repealer and new section filed 3-3-86; effective thirtieth day thereafter (Register 86, No. 10).
2. Amendment submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
3. Amendment filed 8-30-91; operative 9-29-91 (Register 92, No. 4).

§ 54046. Public School Employee Holding Valid Credential.

A student claiming residence status pursuant to section 68078 of the Education Code shall provide a statement from the employer showing employment by a public school in a full-time position requiring certification qualifications for the college year in which the student enrolls. The student must also show that he or she holds a credential and will enroll in courses necessary to obtain another type of credential authorizing service in the public schools, or that the student holds a credential issued by the Board of Governors and is enrolled in courses necessary to fulfill credential requirements.

NOTE: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Sections 68044 and 68078, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 54047. Student Under Custody of Resident Adult.

A student claiming residence under provisions of section 68073 of the Education Code shall provide evidence that the adult or adults with whom the student has resided has had California residence for 1 year immediately preceding the residence determination date, and further evidence that the student has resided with such adult or adults for a period of not fewer than 2 years.

NOTE: Authority cited: Sections 66700, and 68044, Education Code. Reference: Sections 68044 and 68073, Education Code.

HISTORY

1. Amendment of sections submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Editorial correction of printing error (Register 91, No. 43).

§ 54048. Agricultural Employment.

A student claiming residence shall provide either (a) or (b):

(a) Evidence that the student's parent with whom the student is living earns a livelihood primarily by performing agricultural labor for hire in California and other states and has performed such labor in California for at least two months in each of the preceding two years, and that the parent lives within the district. If the parent of such student had sufficient income to incur personal income tax liability for federal and/or state purposes, proof that the student was claimed as a dependent on federal or state personal income tax returns shall also be required.

(b) Evidence showing the student himself or herself earns a livelihood primarily by performing agricultural labor for hire in California and other states and that such labor has been performed in California for at least two months in each of the preceding two years.

As used in this section agricultural labor for hire means seasonal employment in connection with actual production of agricultural crops, including seeding, thinning and harvesting.

NOTE: Authority cited: Sections 66700, 68044, 68040 and 68100, Education Code. Reference: Sections 68044, 68100 and 78034, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 54050. Exceptions from the One-Year Waiting Period.

Those exceptions from payment of nonresident tuition provided by Education Code sections 68074 (military dependents) and 68075 (military members) apply only during the first year of the student's current physical presence in California.

NOTE: Authority cited: Sections 66700 and 68044, Education Code. Reference: Sections 68044, 68074 and 68075, Education Code.
HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 54060. Appeal Procedure.

(a) A community college district shall notify each student of the student's residence classification not later than fourteen (14) calendar days after the beginning of the session for which the student has applied, or fourteen (14) calendar days after the student's application for admission, whichever is later.

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(c) Community college districts shall require applicants to supply information as specified in this chapter and may require additional information as deemed necessary.

(d) The district shall weigh the information provided by the student and determine whether the student has clearly established that he or she has been a resident of California for one year prior to the residence determination date.

(e) Applicants shall certify their answers on residence questionnaires under oath or penalty of perjury.

NOTE: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Sections 68044 and 68062, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 54012. Residence Questionnaires.

(a) Each community college district shall use a residence questionnaire in making residence classifications.

(b) The residence questionnaire shall ask each student where the student has maintained his or her home for the last two years and whether the student has engaged in any activity listed in subsection (f) of section 54024.

(c) The questionnaire shall ask each student under 19 years of age where the parent has lived for the last two years and whether the parent has engaged in any activity listed in subsection (f) of section 54024.

(d) If the student, or the student's parent if the student is under age 19, has either maintained a home outside of California at any time during the last two years, or has engaged in any activity listed in subsection (f) of section 54024, the student shall be asked for additional evidence of intent to reside in California such as that identified in subsection (e) of section 54024.

(e) The Chancellor shall provide a sample residence questionnaire which districts may use in complying with this requirement.

NOTE: Authority cited: Sections 66700, 68044 and 70901, Education Code. Reference: Sections 68044 and 68062, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 54020. Residence.

In order to establish a residence, it is necessary that there be a union of act and intent. To establish residence, a person capable of establishing residence in California must couple his or her physical presence in California with objective evidence that the physical presence is with the intent to make California the home for other than a temporary purpose.

NOTE: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Sections 68017, 68060, 68061 and 68062, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 54022. Physical Presence.

(a) A person capable of establishing residence in California must be physically present in California for one year prior to the residence determination date to be classified as a resident student.

(b) A temporary absence for business, education or pleasure will not result in loss of California residence if, during the absence, the person always intended to return to California and did nothing inconsistent with that intent.

(c) Physical presence within the state solely for educational purposes does not constitute establishing California residence regardless of the length of that presence.

NOTE: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Sections 68017, 68023, 68060, 68061 and 68062, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 54024. Intent.

(a) Intent to make California the home for other than a temporary purpose may be manifested in many ways. No one factor is controlling.

(b) A student who is 19 years of age or over, and who has maintained a home in California continuously for the last two years shall be presumed to have the intent to make California the home for other than a temporary purpose unless the student has evidenced a contrary intent by having engaged in any of the activities listed in subsection (f) of this section.

(c) A student who is under 19 years of age shall be presumed to have the intent to make California the home for other than a temporary purpose if both the student and his parent have maintained a home in California continuously for the last two years unless the student has evidenced a contrary intent by having engaged in any of the activities listed in subsection (f) of this section.

(d) A student who does not meet the requirements of subsection (b) or subsection (c) of this section shall be required to provide evidence of intent to make California the home for other than a temporary purpose as specified in subsection (e) of this section.

(e) Objective manifestations of intent to establish California residence include but are not limited to:

(1) Ownership of residential property or continuous occupancy of rented or leased property in California.

(2) Registering to vote and voting in California.

(3) Licensing from California for professional practice.

(4) Active membership in service or social clubs.

(5) Presence of spouse, children or other close relatives in the state.

(6) Showing California as home address on federal income tax form.

(7) Payment of California state income tax as a resident.

(8) Possessing California motor vehicle license plates.

(9) Possessing a California driver's license.

(10) Maintaining permanent military address or home of record in California while in armed forces.

(11) Establishing and maintaining active California bank accounts.

(12) Being the petitioner for a divorce in California.

(f) Conduct inconsistent with a claim of California residence includes but is not limited to:

(1) Maintaining voter registration and voting in another state.

(2) Being the petitioner for a divorce in another state.

(3) Attending an out-of-state institution as a resident of that other state.

(4) Declaring nonresidence for state income tax purposes.

NOTE: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Sections 68017, 68060, 68061 and 68062, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 54026. Burden.

The burden is on the student to demonstrate clearly both physical presence in California and intent to establish California residence.

NOTE: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Section 68041, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 54028. One-Year Waiting Period.

The one-year residence period which a student must meet to be classified as a resident does not begin to run until the student both is present in California and has manifested clear intent to become a California resident.

NOTE: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Sections 68017, 68060, 68061 and 68062, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 54030. Reestablished Residence.

If a student or the parents of a minor student relinquish California residence after moving from the state, one full year of physical presence,

coupled with one full year of demonstrated intent to be a California resident, is required to reestablish residence for tuition purposes, except as provided in Education Code section 68070.

NOTE: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Sections 68017, 68060, 68061 and 68062, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 54032. Financial Independence.

(a) A student seeking reclassification as a resident, who was classified as a nonresident in the preceding term, shall be determined financially independent or dependent in accordance with Education Code section 68044.

(b) A student who has established financial independence may be reclassified as a resident if the student has met the requirements of section 54020 for one year prior to the residence determination date.

(c) In determining whether the student has objectively manifested intent to establish California residence, financial independence shall weigh in favor of finding California residence, and financial dependence shall weigh against finding California residence.

(d) Financial dependence in the current or preceding calendar year shall weigh more heavily against finding California residence than shall financial dependence in earlier calendar years. Financial dependence in the current or preceding calendar year shall be overcome only if

(1) the parent on whom the student is dependent is a California resident, or

(2) there is no evidence of the student's continuing residence in another state.

NOTE: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Section 68044, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 54040. Self-Supporting Exception.

Any student claiming application of the self-supporting exception pursuant to Education Code section 68071 shall provide evidence such as: documentation, including W-2 forms or a letter from the employer, showing earnings for the year immediately preceding the residence determination date of attendance, a statement that the student has actually been present in California for said year (short absences from the state for business or pleasure will not preclude the accumulation of time), and a statement showing all expenses of the student for said year.

NOTE: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Sections 68044 and 68071, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 54041. Military Dependent.

A dependent natural or adopted child, stepchild or spouse of a member of the armed forces of the United States claiming residence status pursuant to section 68074 of the Education Code shall provide a statement from the military person's commanding officer or personnel officer that the military person's duty station is in California on active duty as of the residence determination date; or that the military person is outside of California on active duty after having been transferred immediately and directly from a California duty station after the residence determination date; or that the military person has, after the residence determination date, retired as an active member of the armed forces of the United States. A statement that the student is a dependent of the military person for an exemption on federal taxes shall also be provided.

NOTE: Authority cited: Sections 66700, 68044 and 70901, Education Code. Reference: Sections 68044 and 68074, Education Code.

HISTORY

1. Amendment filed 6-8-83; effective thirtieth day thereafter (Register 83, No. 24).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 54042. Member of Military.

A student claiming application of section 68075 of the Education Code must provide a statement from the student's commanding officer or personnel officer that the assignment to active duty in this state is not for educational purposes. The student should also produce evidence of the date of assignment to California.

NOTE: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Sections 68044 and 68075, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 54045. Alien Students.

An alien not precluded from establishing domicile in the United States by the Immigration and Nationality Act (8 U.S.C. 1101, et seq.) shall be classified as a resident or nonresident pursuant to the provisions of this chapter.

An alien is precluded from establishing domicile in the United States if the alien entered the United States illegally or under a visa which requires that the alien have a residence outside the United States or that he or she enter the United States solely for some temporary purpose. An alien who is precluded for establishing domicile in the United States shall not be classified as a resident unless and until he or she has been granted a change of status by the Immigration and Naturalization Service to a classification which permits establishing domicile and has met the requirements of Sections 54020-24 related to physical presence and intent to make California home for other than a temporary purpose. Undocumented aliens who are classified as California residents by any college in a district for the fall 1991 term shall not be subject to reclassification so long as they remain continuously enrolled, as defined in Education Code 68016, in the district, regardless of which college within the district is attended.

NOTE: Authority cited: Sections 66700, 68044 and 70901, Education Code. Reference: Section 68062(h), Education Code; 8 USC 1101(a) (15); *Toll v. Moreno*, 458 U.S. 1 (1982); and *Regents of the University of California v. Bradford*, 225 Cal.App.3d 972, 276 Cal.Rptr. 197 (1990).

HISTORY

1. Repealer and new section filed 3-3-86; effective thirtieth day thereafter (Register 86, No. 10).
2. Amendment submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
3. Amendment filed 8-30-91; operative 9-29-91 (Register 92, No. 4).
4. Editorial correction of printing error in second paragraph (Register 92, No. 12).

§ 54046. Public School Employee Holding Valid Credential.

A student claiming residence status pursuant to section 68078 of the Education Code shall provide a statement from the employer showing employment by a public school in a full-time position requiring certification qualifications for the college year in which the student enrolls. The student must also show that he or she holds a credential and will enroll in courses necessary to obtain another type of credential authorizing service in the public schools, or that the student holds a credential issued by the Board of Governors and is enrolled in courses necessary to fulfill credential requirements.

NOTE: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Sections 68044 and 68078, Education Code.

HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 54047. Student Under Custody of Resident Adult.

A student claiming residence under provisions of section 68073 of the Education Code shall provide evidence that the adult or adults with whom the student has resided has had California residence for 1 year immediately preceding the residence determination date, and further evidence that the student has resided with such adult or adults for a period of not fewer than 2 years.

NOTE: Authority cited: Sections 66700, and 68044, Education Code. Reference: Sections 68044 and 68073, Education Code.

History

1. Amendment of sections submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Editorial correction of printing error (Register 91, No. 43).

§ 54048. Agricultural Employment.

A student claiming residence shall provide either (a) or (b):

(a) Evidence that the student's parent with whom the student is living earns a livelihood primarily by performing agricultural labor for hire in California and other states and has performed such labor in California for at least two months in each of the preceding two years, and that the parent lives within the district. If the parent of such student had sufficient income to incur personal income tax liability for federal and/or state purposes, proof that the student was claimed as a dependent on federal or state personal income tax returns shall also be required.

(b) Evidence showing the student himself or herself earns a livelihood primarily by performing agricultural labor for hire in California and other states and that such labor has been performed in California for at least two months in each of the preceding two years.

As used in this section agricultural labor for hire means seasonal employment in connection with actual production of agricultural crops, including seeding, thinning and harvesting.

Note: Authority cited: Sections 66700, 68044, 68040 and 68100, Education Code. Reference: Sections 68044, 68100 and 78034, Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 54050. Exceptions from the One-Year Waiting Period.

Those exceptions from payment of nonresident tuition provided by Education Code sections 68074 (military dependents) and 68075 (military members) apply only during the first year of the student's current physical presence in California.

Note: Authority cited: Sections 66700 and 68044, Education Code. Reference: Sections 68044, 68074 and 68075, Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 54060. Appeal Procedure.

(a) A community college district shall notify each student of the student's residence classification not later than fourteen (14) calendar days after the beginning of the session for which the student has applied, or fourteen (14) calendar days after the student's application for admission, whichever is later.

(b) Any student, following a decision on residence classification by the college, may make written appeal of that decision. Each community college district shall establish procedures for appeals of residence classifications.

(c) The Chancellor will advise community college districts on issues in residence classification. However, the student shall have no right of appeal to the Chancellor or Board of Governors.

Note: Authority cited: Sections 66700 and 68044, Education Code. Reference: Sections 68040, 68044 and 78034, Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 54070. Refunds.

The governing board of each community college district shall adopt rules providing for refund of the following nonresident tuition fees:

(a) Those collected in error.

(b) Those refundable as a result of a reduction of the educational program at the community college for which the fees have been paid.

(c) Those refundable as a result of the student's reduction of units or the student's withdrawal from an education program at the community college for which fees have been paid, where reduction or withdrawal is for reasons deemed sufficient by the governing board.

Note: Authority cited: Sections 66700, 68044 and 68051, Education Code. Reference: Sections 68044 and 68051, Education Code.

History

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

§ 54072. Waiver.

The community college district may waive nonresident tuition fees which were not collected in a previous session where:

(a) The fees were not collected as a result of the district's error and not through the fault of the student, and

(b) To collect the fees would cause the student undue hardship. No state funds may be collected for the attendance of a student for whom fees were waived pursuant to this section.

Note: Authority cited: Sections 66700, 68044 and 68051, Education Code. Reference: Section 68044, Education Code.

History

1. New section filed 6-8-83; effective thirtieth day thereafter (Register 83, No. 24).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

Subchapter 2. Parking for Students with Disabilities

§ 54100. Parking for Students with Disabilities.

(a) Each community college district which provides parking shall, consistent with the requirements of this section and Education Code Sections 66260 and 67311.5, provide parking at each of its colleges or centers to students with disabilities and those providing transportation for such students.

(b) For purposes of this section, "students with disabilities" are those who have enrolled at the college and:

(1) qualify as disabled persons or disabled veterans pursuant to Section 22511.5 of the Vehicle Code; or

(2) are entitled to special parking provided through Disabled Student Programs and Services pursuant to Subchapter 1 (commencing with Section 56000) of Chapter 7 of this Division.

(c) Students with disabilities using parking provided under this section may be required to display a distinguishing license plate or placard issued by the Department of Motor Vehicles pursuant to Section 22511.5 of the Vehicle Code or a special sticker issued by the college authorizing parking in spaces designated for persons with disabilities.

(d) Students with disabilities may be required to pay parking permit fees imposed pursuant to Education Code Section 72247. Students with disabilities shall not be required to pay any other charge, or be subjected to any time limitation or other restriction not specified herein, when parking in any of the following areas:

(1) any restricted zone described in subdivision (e) of Section 21458 of the Vehicle Code;

(2) any street upon which preferential parking privileges and height limits have been given pursuant to Section 22507 of the Vehicle Code;

(3) any parking zone that is restricted as to the length of time parking is permitted as indicated by a sign erected pursuant to a local ordinance;

(4) any metered zone; or

(5) any space in any lot or area otherwise designated for use by faculty, staff, administrators, or visitors.

(e) Parking specifically designated for persons with disabilities pursuant to Section 7102 of Title 24 of the California Code of Regulations shall be available to students with disabilities, and those providing transportation to such persons, in those parking areas which are most accessible to facilities which the district finds are most used by students.

(f) Each community college district shall post in conspicuous places notice that parking is available to students with disabilities and those providing transportation for such students.

(g) When parking provided pursuant to this section is located in an area where access is controlled by a mechanical gate, the district shall ensure that accommodations are made for students with disabilities who are unable to operate the gate controls. Accommodations may be provided by

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§ 54012	§54045
§ 54020	§54046
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§ 54030	
§ 54032	

3. Editorial correction of HISTORY 1 (Register 95, No. 19).

Chapter 5. Students

Subchapter 1. Student Residence Classification

§ 54000. Uniform Residency Requirements.

The provisions of this chapter implement and should be read in conjunction with the Uniform Residency Requirements contained in part 41 (commencing with section 68000) of the Education Code.

NOTE: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Part 41 (commencing with Section 68000), Education Code.

HISTORY

1. Repealer of chapter 1 (sections 54000, 54001, 54100, 54101) and new chapter 1 (sections 54000 through 54082, not consecutive) filed 6-25-73 as an emergency; effective upon filing. Certificate of Compliance included (Register 73, No. 26). For prior history, see Register 70, No. 16.
2. Amendment of NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
3. Repealer of chapter 1 (sections 54000-54082, not consecutive) and new chapter 1 (sections 54000-54070, not consecutive) filed 11-22-82; effective thirtieth day thereafter (Register 82, No. 48). For prior history, see Registers 79, No. 46; 77, No. 45; 74, No. 45; 74, No. 10; and 73, No. 44.
4. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
5. Editorial correction of HISTORY 4 (Register 95, No. 19).

§ 54001. Adoption of Rules and Regulations; Publication; Uniformity.

The residence determination date and a summary of the rules and regulations adopted by the Board of Governors and district governing boards pursuant to chapter 1, part 41 of division 5 of the Education Code, commencing with section 68000, shall be published in the district catalogs and/or addenda thereto. The applicable Education Code provisions and the rules and regulations adopted by the Board of Governors and the district shall be made available to the students at each district.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 3-4-91 by the Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 5-15-93; operative 6-4-93 (Register 93, No. 25).
3. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54002. Residence Determination Date.

"Residence determination date" is that day immediately preceding the opening day of instruction of the quarter, semester, or other session as set by the district governing board, during which the student proposes to attend a college.

NOTE: Authority cited: Sections 66700, 68023, 68044, and 70901, Education Code. Reference: Section 68023, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54010. Residence Classification Procedures.

(a) Residence classification shall be made for each student at the time applications for admission are accepted and whenever a student has not been in attendance for more than one semester or quarter. A student previously classified as a nonresident may be reclassified as of any residence determination date.

(b) The student shall be required to present evidence of physical presence in California, intent to make California the home for other than a

temporary purpose and, if the student was classified as a nonresident in the preceding term, financial independence.

(c) Community college districts shall require applicants to supply information as specified in this chapter and may require additional information as deemed necessary.

(d) The district shall weigh the information provided by the student and determine whether the student has clearly established that he or she has been a resident of California for one year prior to the residence determination date.

(e) Applicants shall certify their answers on residence questionnaires under oath or penalty of perjury.

NOTE: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Sections 68044 and 68062, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54012. Residence Questionnaires.

(a) Each community college district shall use a residence questionnaire in making residence classifications.

(b) The residence questionnaire shall ask each student where the student has maintained his or her home for the last two years and whether the student has engaged in any activity listed in subsection (f) of section 54024.

(c) The questionnaire shall ask each student under 19 years of age where the parent has lived for the last two years and whether the parent has engaged in any activity listed in subsection (f) of section 54024.

(d) If the student, or the student's parent if the student is under age 19, has either maintained a home outside of California at any time during the last two years, or has engaged in any activity listed in subsection (f) of section 54024, the student shall be asked for additional evidence of intent to reside in California such as that identified in subsection (e) of section 54024.

(e) The Chancellor shall provide a sample residence questionnaire which districts may use in complying with this requirement.

NOTE: Authority cited: Sections 66700, 68044 and 70901, Education Code. Reference: Sections 68044 and 68062, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54020. Residence.

In order to establish a residence, it is necessary that there be a union of act and intent. To establish residence, a person capable of establishing residence in California must couple his or her physical presence in California with objective evidence that the physical presence is with the intent to make California the home for other than a temporary purpose.

NOTE: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Sections 68017, 68060, 68061 and 68062, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54022. Physical Presence.

(a) A person capable of establishing residence in California must be physically present in California for one year prior to the residence determination date to be classified as a resident student.

(b) A temporary absence for business, education or pleasure will not result in loss of California residence if, during the absence, the person always intended to return to California and did nothing inconsistent with that intent.

(c) Physical presence within the state solely for educational purposes does not constitute establishing California residence regardless of the length of that presence.

NOTE: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Sections 68017, 68023, 68060, 68061 and 68062, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54024. Intent.

(a) Intent to make California the home for other than a temporary purpose may be manifested in many ways. No one factor is controlling.

(b) A student who is 19 years of age or over, and who has maintained a home in California continuously for the last two years shall be presumed to have the intent to make California the home for other than a temporary purpose unless the student has evidenced a contrary intent by having engaged in any of the activities listed in subsection (f) of this section.

(c) A student who is under 19 years of age shall be presumed to have the intent to make California the home for other than a temporary purpose if both the student and his parent have maintained a home in California continuously for the last two years unless the student has evidenced a contrary intent by having engaged in any of the activities listed in subsection (f) of this section.

(d) A student who does not meet the requirements of subsection (b) or subsection (c) of this section shall be required to provide evidence of intent to make California the home for other than a temporary purpose as specified in subsection (e) of this section.

(e) Objective manifestations of intent to establish California residence include but are not limited to:

- (1) Ownership of residential property or continuous occupancy of rented or leased property in California.
 - (2) Registering to vote and voting in California.
 - (3) Licensing from California for professional practice.
 - (4) Active membership in service or social clubs.
 - (5) Presence of spouse, children or other close relatives in the state.
 - (6) Showing California as home address on federal income tax form.
 - (7) Payment of California state income tax as a resident.
 - (8) Possessing California motor vehicle license plates.
 - (9) Possessing a California driver's license.
 - (10) Maintaining permanent military address or home of record in California while in armed forces.
 - (11) Establishing and maintaining active California bank accounts.
 - (12) Being the petitioner for a divorce in California.
- (f) Conduct inconsistent with a claim of California residence includes but is not limited to:

- (1) Maintaining voter registration and voting in another state.
- (2) Being the petitioner for a divorce in another state.
- (3) Attending an out-of-state institution as a resident of that other state.
- (4) Declaring nonresidence for state income tax purposes.

NOTE: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Sections 68017, 68060, 68061 and 68062, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54026. Burden.

The burden is on the student to demonstrate clearly both physical presence in California and intent to establish California residence.

NOTE: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Section 68041, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23).

Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54028. One-Year Waiting Period.

The one-year residence period which a student must meet to be classified as a resident does not begin to run until the student both is present in California and has manifested clear intent to become a California resident.

NOTE: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Sections 68017, 68060, 68061 and 68062, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54030. Reestablished Residence.

If a student or the parents of a minor student relinquish California residence after moving from the state, one full year of physical presence, coupled with one full year of demonstrated intent to be a California resident, is required to reestablish residence for tuition purposes, except as provided in Education Code section 68070.

NOTE: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Sections 68017, 68060, 68061 and 68062, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54032. Financial Independence.

(a) A student seeking reclassification as a resident, who was classified as a nonresident in the preceding term, shall be determined financially independent or dependent in accordance with Education Code section 68044.

(b) A student who has established financial independence may be reclassified as a resident if the student has met the requirements of section 54020 for one year prior to the residence determination date.

(c) In determining whether the student has objectively manifested intent to establish California residence, financial independence shall weigh in favor of finding California residence, and financial dependence shall weigh against finding California residence.

(d) Financial dependence in the current or preceding calendar year shall weigh more heavily against finding California residence than shall financial dependence in earlier calendar years. Financial dependence in the current or preceding calendar year shall be overcome only if

- (1) the parent on whom the student is dependent is a California resident, or
- (2) there is no evidence of the student's continuing residence in another state.

NOTE: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Section 68044, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54040. Self-Supporting Exception.

Any student claiming application of the self-supporting exception pursuant to Education Code section 68071 shall provide evidence such as: documentation, including W-2 forms or a letter from the employer, showing earnings for the year immediately preceding the residence determination date of attendance, a statement that the student has actually been present in California for said year (short absences from the state for business or pleasure will not preclude the accumulation of time), and a statement showing all expenses of the student for said year.

NOTE: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Sections 68044 and 68071, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54041. Military Dependent.

A dependent natural or adopted child, stepchild or spouse of a member of the armed forces of the United States claiming residence status pursuant to section 68074 of the Education Code shall provide a statement from the military person's commanding officer or personnel officer that the military person's duty station is in California on active duty as of the residence determination date; or that the military person is outside of California on active duty after having been transferred immediately and directly from a California duty station after the residence determination date; or that the military person has, after the residence determination date, retired as an active member of the armed forces of the United States. A statement that the student is a dependent of the military person for an exemption on federal taxes shall also be provided.

NOTE: Authority cited: Sections 66700, 68044 and 70901, Education Code. Reference: Sections 68044 and 68074, Education Code.

HISTORY

1. Amendment filed 6-8-83; effective thirtieth day thereafter (Register 83, No. 24).
2. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of HISTORY 2 (Register 95, No. 19).

§ 54042. Member of Military.

A student claiming application of section 68075 of the Education Code must provide a statement from the student's commanding officer or personnel officer that the assignment to active duty in this state is not for educational purposes. The student should also produce evidence of the date of assignment to California.

NOTE: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Sections 68044 and 68075, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54045. Alien Students.

(a) An alien not precluded from establishing domicile in the United States by the Immigration and Nationality Act (8 U.S.C. 1101, et seq.) shall be eligible to establish residency pursuant to the provisions of this subchapter.

(b) An alien is precluded from establishing domicile in the United States if the alien:

- (1) entered the United States illegally (undocumented aliens);
- (2) entered the United States under a visa which requires that the alien have a residence outside of the United States; or
- (3) entered the United States under a visa which permits entry solely for some temporary purpose.

(c) An alien described in paragraph (b) shall not be classified as a resident unless and until he or she has taken appropriate steps to obtain a change of status from the Immigration and Naturalization Service to a classification which does not preclude establishing domicile, and has met the requirements of Sections 54020-54024 related to physical presence and the intent to make California home for other than a temporary purpose. The Chancellor shall, after consultation with the University of California and the California State University, issue guidelines for the implementation of this section.

(d) Notwithstanding any other provision of this subchapter, an alien who was classified as a California resident by any college in a district as of September 30, 1991, or during the Fall 1991 term, shall not be subject

to reclassification unless the student has not been in attendance at any college in the district for more than one semester or quarter.

NOTE: Authority cited: Sections 66700, 68044 and 70901, Education Code. Reference: Section 68062(h), Education Code; 8 U.S.C. 1101(a)(15); *Toll v. Moreno*, 458 U.S. 1 (1982); and *Regents of the University of California v. Bradford*, 225 Cal.App.3d, 972, 276 Cal. Rptr. 197 (1990).

HISTORY

1. Repealer and new section filed 3-3-86; effective thirtieth day thereafter (Register 86, No. 10).
2. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Amendment filed 8-30-91; operative 9-29-91 (Register 92, No. 4).
4. Editorial correction of printing error in second paragraph (Register 92, No. 12).
5. Repealer and new section filed 1-16-92; operative 2-18-92 (Register 92, No. 18).
6. Editorial correction of HISTORY 2 (Register 95, No. 19).

§ 54046. Public School Employee Holding Valid Credential.

A student claiming residence status pursuant to section 68078 of the Education Code shall provide a statement from the employer showing employment by a public school in a full-time position requiring certification qualifications for the college year in which the student enrolls. The student must also show that he or she holds a credential and will enroll in courses necessary to obtain another type of credential authorizing service in the public schools, or that the student holds a credential issued by the Board of Governors and is enrolled in courses necessary to fulfill credential requirements.

NOTE: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Sections 68044 and 68078, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54047. Student Under Custody of Resident Adult.

A student claiming residence under provisions of section 68073 of the Education Code shall provide evidence that the adult or adults with whom the student has resided has had California residence for 1 year immediately preceding the residence determination date, and further evidence that the student has resided with such adult or adults for a period of not fewer than 2 years.

NOTE: Authority cited: Sections 66700, and 68044, Education Code. Reference: Sections 68044 and 68073, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of printing error (Register 91, No. 43).
3. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54048. Agricultural Employment.

A student claiming residence shall provide either (a) or (b):

(a) Evidence that the student's parent with whom the student is living earns a livelihood primarily by performing agricultural labor for hire in California and other states and has performed such labor in California for at least two months in each of the preceding two years, and that the parent lives within the district. If the parent of such student had sufficient income to incur personal income tax liability for federal and/or state purposes, proof that the student was claimed as a dependent on federal or state personal income tax returns shall also be required.

(b) Evidence showing the student himself or herself earns a livelihood primarily by performing agricultural labor for hire in California and other states and that such labor has been performed in California for at least two months in each of the preceding two years.

As used in this section agricultural labor for hire means seasonal employment in connection with actual production of agricultural crops, including seeding, thinning and harvesting.

NOTE: Authority cited: Sections 66700, 68044, 68040 and 68100, Education Code. Reference: Sections 68044, 68100 and 78034, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54050. Exceptions from the One-Year Waiting Period.

Those exceptions from payment of nonresident tuition provided by Education Code sections 68074 (military dependents) and 68075 (military members) apply only during the first year of the student's current physical presence in California.

NOTE: Authority cited: Sections 66700 and 68044, Education Code. Reference: Sections 68044, 68074 and 68075, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54060. Appeal Procedure.

(a) A community college district shall notify each student of the student's residence classification not later than fourteen (14) calendar days after the beginning of the session for which the student has applied, or fourteen (14) calendar days after the student's application for admission, whichever is later.

(b) Any student, following a decision on residence classification by the college, may make written appeal of that decision. Each community college district shall establish procedures for appeals of residence classifications.

(c) The Chancellor will advise community college districts on issues in residence classification. However, the student shall have no right of appeal to the Chancellor or Board of Governors.

NOTE: Authority cited: Sections 66700 and 68044, Education Code. Reference: Sections 68040, 68044 and 78034, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54070. Refunds.

The governing board of each community college district shall adopt rules providing for refund of the following nonresident tuition fees:

- (a) Those collected in error.
- (b) Those refundable as a result of a reduction of the educational program at the community college for which the fees have been paid.
- (c) Those refundable as a result of the student's reduction of units or the student's withdrawal from an education program at the community college for which fees have been paid, where reduction or withdrawal is for reasons deemed sufficient by the governing board.

NOTE: Authority cited: Sections 66700, 68044 and 68051, Education Code. Reference: Sections 68044 and 68051, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54072. Waiver.

The community college district may waive nonresident tuition fees which were not collected in a previous session where:

- (a) The fees were not collected as a result of the district's error and not through the fault of the student, and
- (b) To collect the fees would cause the student undue hardship. No state funds may be collected for the attendance of a student for whom fees were waived pursuant to this section.

NOTE: Authority cited: Sections 66700, 68044 and 68051, Education Code. Reference: Section 68044, Education Code.

HISTORY

1. New section filed 6-8-83; effective thirtieth day thereafter (Register 83, No. 24).
2. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of HISTORY 2 (Register 95, No. 19).

Subchapter 2. Parking for Students with Disabilities

§ 54100. Parking for Students with Disabilities.

(a) Each community college district which provides parking shall, consistent with the requirements of this section and Education Code Sections 66260 and 67311.5, provide parking at each of its colleges or centers to students with disabilities and those providing transportation for such students.

(b) For purposes of this section, "students with disabilities" are those who have enrolled at the college and:

- (1) qualify as disabled persons or disabled veterans pursuant to Section 22511.5 of the Vehicle Code; or
- (2) are entitled to special parking provided through Disabled Student Programs and Services pursuant to Subchapter 1 (commencing with Section 56000) of Chapter 7 of this Division.

(c) Students with disabilities using parking provided under this section may be required to display a distinguishing license plate or placard issued by the Department of Motor Vehicles pursuant to Section 22511.5 of the Vehicle Code or a special sticker issued by the college authorizing parking in spaces designated for persons with disabilities.

(d) Students with disabilities may be required to pay parking permit fees imposed pursuant to Education Code Section 72247. Students with disabilities shall not be required to pay any other charge, or be subjected to any time limitation or other restriction not specified herein, when parking in any of the following areas:

- (1) any restricted zone described in subdivision (e) of Section 21458 of the Vehicle Code;
- (2) any street upon which preferential parking privileges and height limits have been given pursuant to Section 22507 of the Vehicle Code;
- (3) any parking zone that is restricted as to the length of time parking is permitted as indicated by a sign erected pursuant to a local ordinance;
- (4) any metered zone; or
- (5) any space in any lot or area otherwise designated for use by faculty, staff, administrators, or visitors.

(e) Parking specifically designated for persons with disabilities pursuant to Section 7102 of Title 24 of the California Code of Regulations shall be available to students with disabilities, and those providing transportation to such persons, in those parking areas which are most accessible to facilities which the district finds are most used by students.

(f) Each community college district shall post in conspicuous places notice that parking is available to students with disabilities and those providing transportation for such students.

(g) When parking provided pursuant to this section is located in an area where access is controlled by a mechanical gate, the district shall ensure that accommodations are made for students with disabilities who are unable to operate the gate controls. Accommodations may be provided by an attendant assigned to assist in operation of the gate or by any other effective means deemed appropriate by the district.

(h) Revenue from parking fees collected pursuant to Education Code Section 72247 may be used to offset the costs of implementing this section.

NOTE: Authority cited: Sections 66260, 67311.5, 66700 and 70901, Education Code. Reference: Sections 66260, 67311.5 and 72247, Education Code; and Sections 21458, 22507 and 22511.5, Vehicle Code.

Register 99-20

§ 54010

3. Editorial correction of HISTORY 1 (Register 95, No. 19).

Chapter 5. Students**Subchapter 1. Student Residence Classification****§ 54000. Uniform Residency Requirements.**

The provisions of this chapter implement and should be read in conjunction with the Uniform Residency Requirements contained in part 41 (commencing with section 68000) of the Education Code.

NOTE: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Part 41 (commencing with Section 68000), Education Code.

HISTORY

1. Repealer of chapter 1 (sections 54000, 54001, 54100, 54101) and new chapter 1 (sections 54000 through 54082, not consecutive) filed 6-25-73 as an emergency; effective upon filing. Certificate of Compliance included (Register 73, No. 26). For prior history, see Register 70, No. 16.
2. Amendment of NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
3. Repealer of chapter 1 (sections 54000-54082, not consecutive) and new chapter 1 (sections 54000-54070, not consecutive) filed 11-22-82; effective thirtieth day thereafter (Register 82, No. 48). For prior history, see Registers 79, No. 46; 77, No. 45; 74, No. 45; 74, No. 10; and 73, No. 44.
4. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
5. Editorial correction of HISTORY 4 (Register 95, No. 19).

§ 54001. Adoption of Rules and Regulations; Publication; Uniformity.

The residence determination date and a summary of the rules and regulations adopted by the Board of Governors and district governing boards pursuant to chapter 1, part 41 of division 5 of the Education Code, commencing with section 68000, shall be published in the district catalogs and/or addenda thereto. The applicable Education Code provisions and the rules and regulations adopted by the Board of Governors and the district shall be made available to the students at each district.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

HISTORY

1. New section filed 3-4-91 by the Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 5-15-93; operative 6-4-93 (Register 93, No. 25).
3. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54002. Residence Determination Date.

"Residence determination date" is that day immediately preceding the opening day of instruction of the quarter, semester, or other session as set by the district governing board, during which the student proposes to attend a college.

NOTE: Authority cited: Sections 66700, 68023, 68044, and 70901, Education Code. Reference: Section 68023, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54010. Residence Classification Procedures.

(a) Residence classification shall be made for each student at the time applications for admission are accepted and whenever a student has not been in attendance for more than one semester or quarter. A student previously classified as a nonresident may be reclassified as of any residence determination date.

(b) The student shall be required to present evidence of physical presence in California, intent to make California the home for other than a

temporary purpose and, if the student was classified as a nonresident in the preceding term, financial independence.

(c) Community college districts shall require applicants to supply information as specified in this chapter and may require additional information as deemed necessary.

(d) The district shall weigh the information provided by the student and determine whether the student has clearly established that he or she has been a resident of California for one year prior to the residence determination date.

(e) Applicants shall certify their answers on residence questionnaires under oath or penalty of perjury.

(f) Pursuant to Section 54300, the district may authorize any information required by this section to be submitted electronically using encrypted digital signatures as specified in Section 54300.

NOTE: Authority cited: Sections 66700, 68044, 70901 and 70901.1, Education Code. Reference: Sections 68044, 68062 and 70901.1, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 19).
3. New subsection (f) and amendment of NOTE filed 5-13-99; operative 6-14-99 (Register 99, No. 20).

§ 54012. Residence Questionnaires.

(a) Each community college district shall use a residence questionnaire in making residence classifications.

(b) The residence questionnaire shall ask each student where the student has maintained his or her home for the last two years and whether the student has engaged in any activity listed in subsection (f) of section 54024.

(c) The questionnaire shall ask each student under 19 years of age where the parent has lived for the last two years and whether the parent has engaged in any activity listed in subsection (f) of section 54024.

(d) If the student, or the student's parent if the student is under age 19, has either maintained a home outside of California at any time during the last two years, or has engaged in any activity listed in subsection (f) of section 54024, the student shall be asked for additional evidence of intent to reside in California such as that identified in subsection (e) of section 54024.

(e) The Chancellor shall provide a sample residence questionnaire which districts may use in complying with this requirement.

NOTE: Authority cited: Sections 66700, 68044 and 70901, Education Code. Reference: Sections 68044 and 68062, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54020. Residence.

In order to establish a residence, it is necessary that there be a union of act and intent. To establish residence, a person capable of establishing residence in California must couple his or her physical presence in California with objective evidence that the physical presence is with the intent to make California the home for other than a temporary purpose.

NOTE: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Sections 68017, 68060, 68061 and 68062, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54022. Physical Presence.

(a) A person capable of establishing residence in California must be physically present in California for one year prior to the residence determination date to be classified as a resident student.

(b) A temporary absence for business, education or pleasure will not result in loss of California residence if, during the absence, the person always intended to return to California and did nothing inconsistent with that intent.

(c) Physical presence within the state solely for educational purposes does not constitute establishing California residence regardless of the length of that presence.

NOTE: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Sections 68017, 68023, 68060, 68061 and 68062, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54024. Intent.

(a) Intent to make California the home for other than a temporary purpose may be manifested in many ways. No one factor is controlling.

(b) A student who is 19 years of age or over, and who has maintained a home in California continuously for the last two years shall be presumed to have the intent to make California the home for other than a temporary purpose unless the student has evidenced a contrary intent by having engaged in any of the activities listed in subsection (f) of this section.

(c) A student who is under 19 years of age shall be presumed to have the intent to make California the home for other than a temporary purpose if both the student and his parent have maintained a home in California continuously for the last two years unless the student has evidenced a contrary intent by having engaged in any of the activities listed in subsection (f) of this section.

(d) A student who does not meet the requirements of subsection (b) or subsection (c) of this section shall be required to provide evidence of intent to make California the home for other than a temporary purpose as specified in subsection (e) of this section.

(e) Objective manifestations of intent to establish California residence include but are not limited to:

(1) Ownership of residential property or continuous occupancy of rented or leased property in California.

(2) Registering to vote and voting in California.

(3) Licensing from California for professional practice.

(4) Active membership in service or social clubs.

(5) Presence of spouse, children or other close relatives in the state.

(6) Showing California as home address on federal income tax form.

(7) Payment of California state income tax as a resident.

(8) Possessing California motor vehicle license plates.

(9) Possessing a California driver's license.

(10) Maintaining permanent military address or home of record in California while in armed forces.

(11) Establishing and maintaining active California bank accounts.

(12) Being the petitioner for a divorce in California.

(f) Conduct inconsistent with a claim of California residence includes but is not limited to:

(1) Maintaining voter registration and voting in another state.

(2) Being the petitioner for a divorce in another state.

(3) Attending an out-of-state institution as a resident of that other state.

(4) Declaring nonresidence for state income tax purposes.

NOTE: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Sections 68017, 68060, 68061 and 68062, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54026. Burden.

The burden is on the student to demonstrate clearly both physical presence in California and intent to establish California residence.

NOTE: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Section 68041, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54028. One-Year Waiting Period.

The one-year residence period which a student must meet to be classified as a resident does not begin to run until the student both is present in California and has manifested clear intent to become a California resident.

NOTE: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Sections 68017, 68060, 68061 and 68062, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54030. Reestablished Residence.

If a student or the parents of a minor student relinquish California residence after moving from the state, one full year of physical presence, coupled with one full year of demonstrated intent to be a California resident, is required to reestablish residence for tuition purposes, except as provided in Education Code section 68070.

NOTE: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Sections 68017, 68060, 68061 and 68062, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54032. Financial Independence.

(a) A student seeking reclassification as a resident, who was classified as a nonresident in the preceding term, shall be determined financially independent or dependent in accordance with Education Code section 68044.

(b) A student who has established financial independence may be reclassified as a resident if the student has met the requirements of section 54020 for one year prior to the residence determination date.

(c) In determining whether the student has objectively manifested intent to establish California residence, financial independence shall weigh in favor of finding California residence, and financial dependence shall weigh against finding California residence.

(d) Financial dependence in the current or preceding calendar year shall weigh more heavily against finding California residence than shall financial dependence in earlier calendar years. Financial dependence in the current or preceding calendar year shall be overcome only if

(1) the parent on whom the student is dependent is a California resident, or

(2) there is no evidence of the student's continuing residence in another state.

NOTE: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Section 68044, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54040. Self-Supporting Exception.

Any student claiming application of the self-supporting exception pursuant to Education Code section 68071 shall provide evidence such as: documentation, including W-2 forms or a letter from the employer, showing earnings for the year immediately preceding the residence determination date of attendance, a statement that the student has actually been present in California for said year (short absences from the state for

business or pleasure will not preclude the accumulation of time), and a statement showing all expenses of the student for said year.

NOTE: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Sections 68044 and 68071, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54041. Military Dependent.

A dependent natural or adopted child, stepchild or spouse of a member of the armed forces of the United States claiming residence status pursuant to section 68074 of the Education Code shall provide a statement from the military person's commanding officer or personnel officer that the military person's duty station is in California on active duty as of the residence determination date; or that the military person is outside of California on active duty after having been transferred immediately and directly from a California duty station after the residence determination date; or that the military person has, after the residence determination date, retired as an active member of the armed forces of the United States. A statement that the student is a dependent of the military person for an exemption on federal taxes shall also be provided.

NOTE: Authority cited: Sections 66700, 68044 and 70901, Education Code. Reference: Sections 68044 and 68074, Education Code.

HISTORY

1. Amendment filed 6-8-83; effective thirtieth day thereafter (Register 83, No. 24).

2. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

3. Editorial correction of HISTORY 2 (Register 95, No. 19).

§ 54042. Member of Military.

A student claiming application of section 68075 of the Education Code must provide a statement from the student's commanding officer or personnel officer that the assignment to active duty in this state is not for educational purposes. The student should also produce evidence of the date of assignment to California.

NOTE: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Sections 68044 and 68075, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54045. Alien Students.

(a) An alien not precluded from establishing domicile in the United States by the Immigration and Nationality Act (8 U.S.C. 1101, et seq.) shall be eligible to establish residency pursuant to the provisions of this subchapter.

(b) An alien is precluded from establishing domicile in the United States if the alien:

- (1) entered the United States illegally (undocumented aliens);
- (2) entered the United States under a visa which requires that the alien have a residence outside of the United States; or
- (3) entered the United States under a visa which permits entry solely for some temporary purpose.

(c) An alien described in paragraph (b) shall not be classified as a resident unless and until he or she has taken appropriate steps to obtain a change of status from the Immigration and Naturalization Service to a classification which does not preclude establishing domicile, and has met the requirements of Sections 54020-54024 related to physical presence and the intent to make California home for other than a temporary purpose. The Chancellor shall, after consultation with the University of California and the California State University, issue guidelines for the implementation of this section.

(d) Notwithstanding any other provision of this subchapter, an alien who was classified as a California resident by any college in a district as of September 30, 1991, or during the Fall 1991 term, shall not be subject to reclassification unless the student has not been in attendance at any college in the district for more than one semester or quarter.

NOTE: Authority cited: Sections 66700, 68044 and 70901, Education Code. Reference: Section 68062(h), Education Code; 8 U.S.C. 1101(a)(15); *Toll v. Moreno*, 458 U.S. 1 (1982); and *Regents of the University of California v. Bradford*, 225 Cal. App. 3rd, 972, 276 Cal. Rptr. 197 (1990).

HISTORY

1. Repealer and new section filed 3-3-86; effective thirtieth day thereafter (Register 86, No. 10).

2. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

3. Amendment filed 8-30-91; operative 9-29-91 (Register 92, No. 4).

4. Editorial correction of printing error in second paragraph (Register 92, No. 12).

5. Repealer and new section filed 1-16-92; operative 2-18-92 (Register 92, No. 18).

6. Editorial correction of HISTORY 2 (Register 95, No. 19).

§ 54046. Public School Employee Holding Valid Credential.

A student claiming residence status pursuant to section 68078 of the Education Code shall provide a statement from the employer showing employment by a public school in a full-time position requiring certification qualifications for the college year in which the student enrolls. The student must also show that he or she holds a credential and will enroll in courses necessary to obtain another type of credential authorizing service in the public schools, or that the student holds a credential issued by the Board of Governors and is enrolled in courses necessary to fulfill credential requirements.

NOTE: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Sections 68044 and 68078, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54047. Student Under Custody of Resident Adult.

A student claiming residence under provisions of section 68073 of the Education Code shall provide evidence that the adult or adults with whom the student has resided has had California residence for 1 year immediately preceding the residence determination date, and further evidence that the student has resided with such adult or adults for a period of not fewer than 2 years.

NOTE: Authority cited: Sections 66700, and 68044, Education Code. Reference: Sections 68044 and 68073, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Editorial correction of printing error (Register 91, No. 43).

3. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54048. Agricultural Employment.

A student claiming residence shall provide either (a) or (b):

(a) Evidence that the student's parent with whom the student is living earns a livelihood primarily by performing agricultural labor for hire in California and other states and has performed such labor in California for at least two months in each of the preceding two years, and that the parent lives within the district. If the parent of such student had sufficient income to incur personal income tax liability for federal and/or state purposes, proof that the student was claimed as a dependent on federal or state personal income tax returns shall also be required.

(b) Evidence showing the student himself or herself earns a livelihood primarily by performing agricultural labor for hire in California and other states and that such labor has been performed in California for at least two months in each of the preceding two years.

As used in this section agricultural labor for hire means seasonal employment in connection with actual production of agricultural crops, including weeding, thinning and harvesting.

NOTE: Authority cited: Sections 66700, 68044, 68040 and 68100, Education Code. Reference: Sections 68044, 68100 and 78034, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54050. Exceptions from the One-Year Waiting Period.

Those exceptions from payment of nonresident tuition provided by Education Code sections 68074 (military dependents) and 68075 (military members) apply only during the first year of the student's current physical presence in California.

NOTE: Authority cited: Sections 66700 and 68044, Education Code. Reference: Sections 68044, 68074 and 68075, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54060. Appeal Procedure.

(a) A community college district shall notify each student of the student's residence classification not later than fourteen (14) calendar days after the beginning of the session for which the student has applied, or fourteen (14) calendar days after the student's application for admission, whichever is later.

(b) Any student, following a decision on residence classification by the college, may make written appeal of that decision. Each community college district shall establish procedures for appeals of residence classifications.

(c) The Chancellor will advise community college districts on issues in residence classification. However, the student shall have no right of appeal to the Chancellor or Board of Governors.

NOTE: Authority cited: Sections 66700 and 68044, Education Code. Reference: Sections 68040, 68044 and 78034, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54070. Refunds.

The governing board of each community college district shall adopt rules providing for refund of the following nonresident tuition fees:

- (a) Those collected in error.
- (b) Those refundable as a result of a reduction of the educational program at the community college for which the fees have been paid.
- (c) Those refundable as a result of the student's reduction of units or the student's withdrawal from an education program at the community college for which fees have been paid, where reduction or withdrawal is for reasons deemed sufficient by the governing board.

NOTE: Authority cited: Sections 66700, 68044 and 68051, Education Code. Reference: Sections 68044 and 68051, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54072. Waiver.

The community college district may waive nonresident tuition fees which were not collected in a previous session where:

- (a) The fees were not collected as a result of the district's error and not through the fault of the student, and

(b) To collect the fees would cause the student undue hardship. No state funds may be collected for the attendance of a student for whom fees were waived pursuant to this section.

NOTE: Authority cited: Sections 66700, 68044 and 68051, Education Code. Reference: Section 68044, Education Code.

HISTORY

1. New section filed 6-8-83; effective thirtieth day thereafter (Register 83, No. 24).
2. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of HISTORY 2 (Register 95, No. 19).

Subchapter 2. Parking for Students with Disabilities

§ 54100. Parking for Students with Disabilities.

(a) Each community college district which provides parking shall, consistent with the requirements of this section and Education Code Sections 66260 and 67311.5, provide parking at each of its colleges or centers to students with disabilities and those providing transportation for such students.

(b) For purposes of this section, "students with disabilities" are those who have enrolled at the college and:

- (1) qualify as disabled persons or disabled veterans pursuant to Section 22511.5 of the Vehicle Code; or
- (2) are entitled to special parking provided through Disabled Student Programs and Services pursuant to Subchapter 1 (commencing with Section 56000) of Chapter 7 of this Division.

(c) Students with disabilities using parking provided under this section may be required to display a distinguishing license plate or placard issued by the Department of Motor Vehicles pursuant to Section 22511.5 of the Vehicle Code or a special sticker issued by the college authorizing parking in spaces designated for persons with disabilities.

(d) Students with disabilities may be required to pay parking permit fees imposed pursuant to Education Code Section 72247. Students with disabilities shall not be required to pay any other charge, or be subjected to any time limitation or other restriction not specified herein, when parking in any of the following areas:

- (1) any restricted zone described in subdivision (e) of Section 21458 of the Vehicle Code;
- (2) any street upon which preferential parking privileges and height limits have been given pursuant to Section 22507 of the Vehicle Code;
- (3) any parking zone that is restricted as to the length of time parking is permitted as indicated by a sign erected pursuant to a local ordinance;
- (4) any metered zone; or
- (5) any space in any lot or area otherwise designated for use by faculty, staff, administrators, or visitors.

(e) Parking specifically designated for persons with disabilities pursuant to Section 7102 of Title 24 of the California Code of Regulations shall be available to students with disabilities, and those providing transportation to such persons, in those parking areas which are most accessible to facilities which the district finds are most used by students.

(f) Each community college district shall post in conspicuous places notice that parking is available to students with disabilities and those providing transportation for such students.

(g) When parking provided pursuant to this section is located in an area where access is controlled by a mechanical gate, the district shall ensure that accommodations are made for students with disabilities who are unable to operate the gate controls. Accommodations may be provided by an attendant assigned to assist in operation of the gate or by any other effective means deemed appropriate by the district.

(h) Revenue from parking fees collected pursuant to Education Code Section 72247 may be used to offset the costs of implementing this section.

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business or pleasure will not preclude the accumulation of time), and a statement showing all expenses of the student for said year.

NOTE: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Sections 68044 and 68071, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54041. Military Dependent.

A dependent natural or adopted child, stepchild or spouse of a member of the armed forces of the United States claiming residence status pursuant to section 68074 of the Education Code shall provide a statement from the military person's commanding officer or personnel officer that the military person's duty station is in California on active duty as of the residence determination date; or that the military person is outside of California on active duty after having been transferred immediately and directly from a California duty station after the residence determination date; or that the military person has, after the residence determination date, retired as an active member of the armed forces of the United States. A statement that the student is a dependent of the military person for an exemption on federal taxes shall also be provided.

NOTE: Authority cited: Sections 66700, 68044 and 70901, Education Code. Reference: Sections 68044 and 68074, Education Code.

HISTORY

1. Amendment filed 6-8-83; effective thirtieth day thereafter (Register 83, No. 24).
2. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of HISTORY 2 (Register 95, No. 19).

§ 54042. Member of Military.

A student claiming application of section 68075 of the Education Code must provide a statement from the student's commanding officer or personnel officer that the assignment to active duty in this state is not for educational purposes. The student should also produce evidence of the date of assignment to California.

NOTE: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Sections 68044 and 68075, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54045. Alien Students.

(a) An alien not precluded from establishing domicile in the United States by the Immigration and Nationality Act (8 U.S.C. 1101, et seq.) shall be eligible to establish residency pursuant to the provisions of this subchapter.

(b) An alien is precluded from establishing domicile in the United States if the alien:

- (1) entered the United States illegally (undocumented aliens);
- (2) entered the United States under a visa which requires that the alien have a residence outside of the United States; or
- (3) entered the United States under a visa which permits entry solely for some temporary purpose.

(c) An alien described in paragraph (b) shall not be classified as a resident unless and until he or she has taken appropriate steps to obtain a change of status from the Immigration and Naturalization Service to a classification which does not preclude establishing domicile, and has met the requirements of Sections 54020-54024 related to physical presence and the intent to make California home for other than a temporary purpose. The Chancellor shall, after consultation with the University of California and the California State University, issue guidelines for the implementation of this section.

(d) Notwithstanding any other provision of this subchapter, an alien who was classified as a California resident by any college in a district as of September 30, 1991, or during the Fall 1991 term, shall not be subject to reclassification unless the student has not been in attendance at any college in the district for more than one semester or quarter.

NOTE: Authority cited: Sections 66700, 68044 and 70901, Education Code. Reference: Section 68062(h), Education Code; 8 U.S.C. 1101(a)(15); *Tall v. Moreno*, 458 U.S. 1 (1982); and *Regents of the University of California v. Bradford*, 225 Cal.App.3d, 972, 276 Cal. Rptr. 197 (1990).

HISTORY

1. Repealer and new section filed 3-3-86; effective thirtieth day thereafter (Register 86, No. 10).
2. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Amendment filed 8-30-91; operative 9-29-91 (Register 92, No. 4).
4. Editorial correction of printing error in second paragraph (Register 92, No. 12).
5. Repealer and new section filed 1-16-92; operative 2-18-92 (Register 92, No. 18).
6. Editorial correction of HISTORY 2 (Register 95, No. 19).

§ 54045.5. Nonresident Tuition Exemption.

(a) In accordance with Education Code section 68130.5, any student, other than a student who is a nonimmigrant alien under 8 U.S.C. 1101(a)(15), shall be exempt from paying nonresident tuition at any community college district if he or she:

- (1) Attended high school in California for three or more years;
- (2) Graduated from a California high school or attained the equivalent of such graduation; and
- (3) Registers for or is enrolled in a course offered by any college in the district for any term commencing on or after January 1, 2002.

(b) Any student seeking an exemption under subdivision (a) shall complete a questionnaire form prescribed by the Chancellor and furnished by the district of enrollment, verifying eligibility for this nonresident tuition exemption, and may be required to provide documentation in addition to the information required by the questionnaire as necessary to verify eligibility for an exemption. All nonpublic student information so provided shall be confidential and shall not be disclosed unless required by law.

(c) Any student without lawful immigration status who is seeking an exemption under subdivision (a), shall, in the questionnaire described in (b), affirm that he or she has filed an application to legalize his or her immigration status, or will file such an application as soon as he or she is eligible to do so.

(d) A student seeking this tuition exemption has the burden of providing evidence of compliance with the requirements of this section.

(e) Nothing herein modifies eligibility standards for any form of student financial aid, including but not limited to, those contained in Subchapter 7 of Chapter 9 of this Division.

(f) Nothing herein authorizes a refund of nonresident tuition that was paid for any term commencing prior to January 1, 2002.

NOTE: Authority cited: Sections 66700, 68130.5 and 70901, Education Code. Reference: Section 68130.5, Education Code.

HISTORY

1. New section filed 5-3-2002; operative 6-2-2002. Submitted to OAL for printing only (Register 2002, No. 25).

§ 54046. Public School Employee Holding Valid Credential.

A student claiming residence status pursuant to section 68078 of the Education Code shall provide a statement from the employer showing employment by a public school in a full-time position requiring certification qualifications for the college year in which the student enrolls. The student must also show that he or she holds a credential and will enroll in courses necessary to obtain another type of credential authorizing service in the public schools, or that the student holds a credential issued by the Board of Governors and is enrolled in courses necessary to fulfill credential requirements.

NOTE: Authority cited: Sections 66700, 68044, and 70901, Education Code. Reference: Sections 68044 and 68078, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54047. Student Under Custody of Resident Adult.

A student claiming residence under provisions of section 68073 of the Education Code shall provide evidence that the adult or adults with whom the student has resided has had California residence for 1 year immediately preceding the residence determination date, and further evidence that the student has resided with such adult or adults for a period of not fewer than 2 years.

NOTE: Authority cited: Sections 66700, and 68044, Education Code. Reference: Sections 68044 and 68073, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of printing error (Register 91, No. 43).
3. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54048. Agricultural Employment.

A student claiming residence shall provide either (a) or (b):

(a) Evidence that the student's parent with whom the student is living earns a livelihood primarily by performing agricultural labor for hire in California and other states and has performed such labor in California for at least two months in each of the preceding two years, and that the parent lives within the district. If the parent of such student had sufficient income to incur personal income tax liability for federal and/or state purposes, proof that the student was claimed as a dependent on federal or state personal income tax returns shall also be required.

(b) Evidence showing the student himself or herself earns a livelihood primarily by performing agricultural labor for hire in California and other states and that such labor has been performed in California for at least two months in each of the preceding two years.

As used in this section agricultural labor for hire means seasonal employment in connection with actual production of agricultural crops, including seeding, thinning and harvesting.

NOTE: Authority cited: Sections 66700, 68044, 68040 and 68100, Education Code. Reference: Sections 68044, 68100 and 78034, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54050. Exceptions from the One-Year Waiting Period.

Those exceptions from payment of nonresident tuition provided by Education Code sections 68074 (military dependents) and 68075 (military members) apply only during the first year of the student's current physical presence in California.

NOTE: Authority cited: Sections 66700 and 68044, Education Code. Reference: Sections 68044, 68074 and 68075, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54060. Appeal Procedure.

(a) A community college district shall notify each student of the student's residence classification not later than fourteen (14) calendar days after the beginning of the session for which the student has applied, or fourteen (14) calendar days after the student's application for admission, whichever is later.

(b) Any student, following a decision on residence classification by the college, may make written appeal of that decision. Each community

college district shall establish procedures for appeals of residence classifications.

(c) The Chancellor will advise community college districts on issues in residence classification. However, the student shall have no right of appeal to the Chancellor or Board of Governors.

NOTE: Authority cited: Sections 66700 and 68044, Education Code. Reference: Sections 68040, 68044 and 78034, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54070. Refunds.

The governing board of each community college district shall adopt rules providing for refund of the following nonresident tuition fees:

(a) Those collected in error.

(b) Those refundable as a result of a reduction of the educational program at the community college for which the fees have been paid.

(c) Those refundable as a result of the student's reduction of units or the student's withdrawal from an education program at the community college for which fees have been paid, where reduction or withdrawal is for reasons deemed sufficient by the governing board.

NOTE: Authority cited: Sections 66700, 68044 and 68051, Education Code. Reference: Sections 68044 and 68051, Education Code.

HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 19).

§ 54072. Waiver.

The community college district may waive nonresident tuition fees which were not collected in a previous session where:

(a) The fees were not collected as a result of the district's error and not through the fault of the student, and

(b) To collect the fees would cause the student undue hardship. No state funds may be collected for the attendance of a student for whom fees were waived pursuant to this section.

NOTE: Authority cited: Sections 66700, 68044 and 68051, Education Code. Reference: Section 68044, Education Code.

HISTORY

1. New section filed 6-8-83; effective thirtieth day thereafter (Register 83, No. 24).
2. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of HISTORY 2 (Register 95, No. 19).

Subchapter 2. Parking for Students with Disabilities

§ 54100. Parking for Students with Disabilities.

(a) Each community college district which provides parking shall, consistent with the requirements of this section and Education Code Sections 66260 and 67311.5, provide parking at each of its colleges or centers to students with disabilities and those providing transportation for such students.

(b) For purposes of this section, "students with disabilities" are those who have enrolled at the college and:

(1) qualify as disabled persons or disabled veterans pursuant to Section 22511.5 of the Vehicle Code; or

(2) are entitled to special parking provided through Disabled Student Programs and Services pursuant to Subchapter 1 (commencing with Section 56000) of Chapter 7 of this Division.

(c) Students with disabilities using parking provided under this section may be required to display a distinguishing license plate or placard issued by the Department of Motor Vehicles pursuant to Section 22511.5 of the